

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DAVID HICKS, *et al.* )  
 )  
 )  
 Petitioners, )  
 )  
 v. ) Civil Action No. 02-CV-0299(CKK)  
 )  
 UNITED STATES, *et al.*, )  
 )  
 Respondents )  
 )  
 )  
 \_\_\_\_\_ )

**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. 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 David Hicks that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

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

Dated: 1 Oct 04

JAPalmer  
Teresa A. McPalmer  
CDR, JAGC, USN



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser:  
30 September 2004

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From: Director, Combatant Status Review Tribunal

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

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

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

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**

29 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 2004

Encl: (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 voluntarily elected not to participate in the Tribunal. During his initial interview with a Personal Representative on 9 September 2004 the detainee declined to elect whether or not to participate in the Tribunal until he had spoken to the lawyer assigned to represent him for his Military Commission case. He also declined to talk to his Personal Representative until he was authorized to do so by his Military Commission lawyer. The Personal Representative then closed the interview. A substitute Personal Representative subsequently interviewed the detainee on 17 September 2004. The detainee was appropriately informed that he did not have the right to be represented by counsel at the Tribunal. He was again asked if he wanted to participate in the Tribunal and he declined to participate. The Record of Proceedings forwarded from the Tribunal did not contain the first Detainee Election Form. In the interest of record completeness, I have inserted a copy of the first Detainee Election Form, dated 9 September 2004, into the Record of Proceedings behind exhibit D-A.

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, R-6 and R-7 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee made no requests for witnesses or other evidence.

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

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

- 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 B. Cristfield Jr.  
CDR, JAGC, USN

UNCLASSIFIED



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

27 September 2004

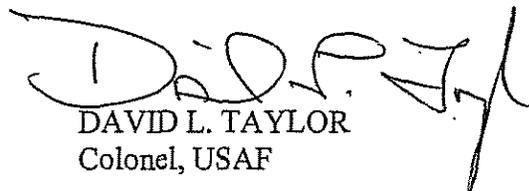
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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

  
DAVID L. TAYLOR  
Colonel, USAF



**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 or 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 summary of the evidence presented to the Tribunal by the Recorder indicated that Detainee [REDACTED] is an al Qaida fighter. He participated in training on a number of occasions, both before and after he realized his trainers were part of al Qaida. The unclassified summary of the evidence also indicated that the detainee has met Usama bin Laden on approximately eight occasions, collected intelligence on the American embassy in Afghanistan for al Qaida, and was sent by a senior al Qaida leader to fight against Northern Alliance and United States forces in Afghanistan after 11 Sep 01. This exhibit also stated that the detainee agreed to fight on the front lines in Konduz, but while engaged in combat failed to wear a uniform or any type of emblem or distinctive military article designating him as a fighter, and did not follow any typical military chain of command. The detainee chose not to participate in the Tribunal process. He called no witnesses and requested no documents be produced.

**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-19.

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

The Detainee requested no witnesses; no rulings were necessary.

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:

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

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

## 6. Consultations with the CSRT Legal Advisor

The Tribunal consulted the CSRT Assistant Legal Advisor during the course of this hearing on the following matters: In his initial interview with his Personal Representative (PR), Detainee [REDACTED] handed the PR a document which is attached to this package as Exhibit R-3. This document was a letter from Detainee to the PR, informing him that the detainee is represented by counsel. The letter went on to state that because he is represented by counsel, Detainee [REDACTED] chooses not to speak to his PR unless and until he is authorized to do so by his attorney. The detainee's PR consulted the Assistant Legal Advisor and the Tribunal President regarding this letter. The Assistant Legal Advisor advised the Tribunal President and the PR that since detainees are not authorized to be represented by counsel for the CSRT process (see Reference (b), attached), Detainee [REDACTED] had no right to consult with his attorney prior to his CSRT hearing. The hearing then commenced on 15 Sep 04. Shortly after the hearing began, the Tribunal became concerned because the original Detainee Election Form did not appear to be consistent with statements made to the PR by the detainee during his initial interview. Specifically, the detainee had requested to meet with his attorney (both orally and through the aforementioned letter), but had not specifically declined to participate in the hearing process if his request were to be turned down. The Tribunal felt that the PR should be allowed to meet with the detainee, tell him that he would not be allowed to consult his attorney regarding the CSRT process, and ask him specifically if he wanted to participate in the process. The hearing was delayed to allow this to happen. After this decision was made, the original PR had to temporarily leave Guantanamo Bay for personal reasons. The Lead PR then assigned himself to the case, met with the detainee and satisfied himself that the detainee understood the process and the decisions he was being asked to make, and filled out a new detainee election form reflecting the detainee's decisions. The hearing was then restarted on 22 Sep 04. Since a week had passed since

the hearing had initially begun and a new PR was present, the Tribunal President decided to restart the hearing from the beginning of the script.

**7. Conclusions of the Tribunal**

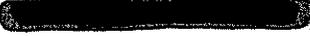
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- 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, so the Tribunal President questioned the PR on the record regarding his interaction with the detainee. The PR indicated that the detainee appeared to understand the process and made a conscious, informed decision to not participate in his CSRT hearing.
- c. The detainee is properly classified as an enemy combatant and is a member of or affiliated with al Qaida.

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

  
, Col, USAF  
Tribunal President

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Summarized Unsworn Detainee Statement

*The Personal Representative made the following statement on behalf of the detainee:*

The Detainee will contest his enemy combatant status in the courts in January.

AUTHENTICATION

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

[REDACTED]

[REDACTED], Col, USAF

Tribunal President

ISN # [REDACTED]  
Enclosure (3)  
Page 1 of 1

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FOUO

Recorder Exhibit List  
For  
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Certification Re: Redaction of National Security Information dtd 6 Aug 04	UNCLASSIFIED
R3	Defense Counsel Letter from David Hicks dtd 14 July 04	UNCLASSIFIED
R4	Sworn Statement from David Hicks dtd 21 Mar 03	FOUO//LES
R5	FBI 302 dtd 11 Feb 02	FOUO//LES
R6	FBI 302 dtd 16 Dec 02	FOUO//LES
R7	FBI 302 dtd 10 Jan 03	FOUO//LES
R8	JTF GTMO Baseball Card	SECRET//NOFORN
R9	CITF Transfer Recommendation Memorandum dtd 30 Jun 04	SECRET//NOFORN
R10	OSD/SOLIEC EC Review Checklist	SECRET//NOFORN
R11	IIR 6 034 0929 02 dtd 12 Dec 01	SECRET
R12	IIR 5 360 0710 02 dtd 05 Jan 02	SECRET
R13	IIR 6 034 0373 02 dtd 11 May 02	SECRET
R14	KB Brief dtd 07 Feb 02	SECRET//NOFORN
R15	Analyst Support Package	SECRET//NOFORN
R16	Form 40 dtd 16 Dec 02	FOUO//LES
R17	Form 40 dtd 23 July 04	FOUO//LES
R18	Form 40 dtd 23 Feb 03	FOUO//LES
R19	Form 40 dtd 29 Jan 03	FOUO//LES

FOUO

Unclassified

**Combatant Status Review Board**

7 September 2004

TO: Personal Representative

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal – HICKS, David Matthew

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

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

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

a. The detainee is an al-Qaida fighter:

1. The detainee affiliated himself with the Taliban.

2. The detainee knew his training was conducted by al-Qaida, which had declared war on the United States.

3. The detainee was trained to use grenades, landmines, rocket-propelled grenades and other small arms weapons.

4. The detainee attended the al-Qaida Information Course in Kabul, where the instructor cited the al-Qaida bombing of the *USS Cole* as a positive example of the uses of al-Qaida training.

5. The detainee met Osama Bin Laden on approximately eight occasions.

b. The detainee participated in military operations against the coalition.

1. The detainee personally collected intelligence on the American Embassy in Afghanistan for al-Qaida.

2. Following 9-11, the detainee met with a senior al-Qaida leader to discuss various locations to fight against the United States and Northern Alliance forces.

Unclassified

Exhibit **R-1**

3. After being stationed near the Khandahar airport, the Detainee agreed to fight on the frontlines in Konduz.

4. The detainee was captured by Northern Alliance forces near Bagram.

5. While engaged in combat, the detainee failed to wear a uniform or any type of emblem or distinctive military article designating him as a fighter; nor did he follow any typical military chain of command.

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

UNCLASSIFIED



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN: [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked<sup>1</sup>. The FBI makes this request on the basis that said information relates to the national security of the United States<sup>2</sup>. 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.

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

<sup>2</sup>See Executive Order 12958

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David M. Hicks  
Camp Echo  
Unit 6-B  
United States Naval Base  
Guantanamo Bay, Cuba

July 14, 2004

Personal Representative  
United States Department of Defense

Dear Personal Representative:

This letter is to inform you that I am represented by counsel and that all communications need to be made through my counsel. My military defense counsel is Maj. Michael D. Mori, USMC. He can be reached at (703) 607-1521 (extension 193). My civilian defense counsel is Joshua L. Dratel, Esq.; he can be reached at (212) 732-0707.

Upon the advice of my attorneys, since you are not my attorney (and instead constitute an agent of the Department of Defense, which has lodged charges against me that it has referred to, intends to try before, a military commission), and we do not share an attorney-client relationship, I am asserting my Fifth and Sixth Amendments rights under the United States Constitution not to speak to you. My attorneys will also be able to discuss with you in more detail my formal position with respect to the Combatant Status Review Tribunal.

~~Accordingly, I decline to speak with you at all unless and until authorized by my counsel. Please call them at the contact numbers set forth above for further information and discussion. Thank you for your consideration in this matter.~~

Very truly yours,

*D Hicks*

David M. Hicks

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DETAINEE ELECTION FORM

Date: 17 Sep 04

Start Time: 0730

End Time: 0740

ISN#: [REDACTED]

Personal Representative: [REDACTED], LT COL, USAF  
(Name/Rank)

Translator Required? NO Language? ENGLISH

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 remembered the CSRT Notice to Detainees that was read to him in July 04. I recapped  
the notice and CSRT process with him. I explain the CSRT was not a legal proceeding and he did  
not have the right to have a lawyer for the Tribunal. Detainee elected not to participate in the  
Tribunal. He stated he would contest his status in court in January 2005. Detainee previously met  
with PR-31 but due to circumstance beyond our control I replaced him.

Personal Representative: [REDACTED]

Personal Representative Review of the Record of Proceedings

I acknowledge that on 25 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED], Lt Col, USAF  
Name

25 Sept 2004  
Date

[REDACTED]  
Signature

ISN # [REDACTED]  
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

GHOLAM RUHANI,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-2367 (RWR)

**DECLARATION OF DAVID N. COOPER**

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Gholam Ruhani 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: 10 August 2006



David N. Cooper  
Lt Col, JAG Corps, USAFR



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0324  
5 November 2004

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 003**

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 #003 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~~

4 Nov 04

## MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 003

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 #2 of 2 August 2004  
(2) Record of Tribunal Proceedings

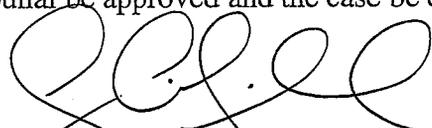
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made an unworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b).
  1. 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.
  2. Tribunal expressed frustration and dissatisfaction with redactions made by the FBI in exhibit R-3. The Tribunal requested and obtained an unredacted copy of the exhibit from the Recorder. It was appropriate for the Tribunal to request the document, but it was inappropriate for the original document to be provided without the permission of the originating agency. While the Tribunal's frustration is understandable, they simply do not have the authority to override a Federal agency's decision to redact information from documents provided to the Tribunal – especially where the agency has provided a certification that the redacted information would not support a determination that the detainee is not an enemy combatant. The Tribunal Decision Report indicates that the original copy of the exhibit in question was appended to exhibit R-3, the redacted version. The original version is not contained in the Record of Proceedings, however. Whether it was never inserted or was either intentionally or inadvertently removed from the Record of Proceedings is

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 003

unclear. I have not sought to re-insert the original document into the record in order to comply with the FBI's request that the information not be disseminated. Since the Tribunal did not find the document persuasive, there is no harm to the detainee by not including the document in the Record. Although it was an error to provide the document to the Tribunal, there is no reason to return the Tribunal Report for further proceedings.

- d. The detainee made no requests for witnesses or other evidence.
  - e. The Tribunal's decision that detainee # 003 is properly classified as an enemy combatant was unanimous.
  - f. 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

2 August 2004

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #2

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

17 September 2004

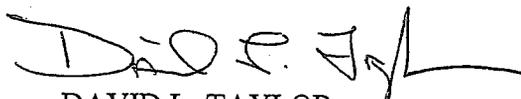
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 003

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

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

  
DAVID L. TAYLOR  
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) (3) and (4).

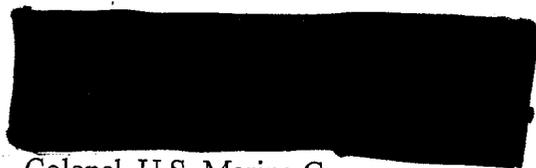
(U) TRIBUNAL PANEL:   #2  

(U) ISN#:   003  

Ref: (a) (U) Convening Order for Tribunal #2 of 2 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/~~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 31 August 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 31 August 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #003 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, the Taliban, 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

**Summarized Unsworn Detainee Statement, read by Personal Representative**

Regarding the U.S. Government's Unclassified Summary of Evidence, dated 25 August 2004, defining that I am an enemy combatant, I, Gholam Ruhani, state the following:

I was forced into the Taliban Regime. The Taliban was the government. It was not pleasant for me to be there. I had a good life in the past. I had a store selling electrical equipment. My family and I worked in the shop.

The Taliban law was that young people had to join the Taliban. I had to join, but protested several times that I had an old father and I wanted to go back to my family.

I wasn't with the Taliban full-time; I was still running my store. I was required to check in with them every 10-15 days. One of the things I was required to do was to work security for a small group, but I had no position of authority or responsibility.

If I had not cooperated with the Taliban Intelligence service member, I would have been sent to the front lines. I was afraid I would be killed.

In order to cooperate with the Americans, I provided English to Pashtu translation at the 9 December 2001 meeting, during which I was captured. I thought it was a friendly meeting, of which I believed I was on the American's side.

Abdul Haq Wasiq and Haji Gholam Mohammad and an American called "Tony" were present at the meeting. I turned over my pistol and ammunition to the American, as an act of faith, because it was a friendly meeting. Everyone in Afghanistan carried a weapon at that time. I expected to leave the meeting and return to my life, my shop and my family. Instead, I was arrested.

**Summarized Unsworn Detainee Statement**

This is the statement I wanted to present to the Tribunal, with the assistance of my Personal Representative.

The information he wanted to portray to the Tribunal was accurate.

I understand that all combatants against the United States were brought here. I never had a war against the United States and I am surprised I'm here.

This Tribunal was supposed to have happened 3 years ago. I have been here 3 years and I am not guilty.

My complaint is whether guilty or not, it [my case] is supposed to go to a Tribunal or court at the time of capture. I've been here 3 years and I'm going through the process now.

I have no further statements, but am asking you to situate [evaluate] my situation.

Summarized Answers to Questions by Tribunal Members

- Q: Did you grow up in Kabul?
- A: No, in a city called Ghazni.
- Q: Is that in Afghanistan?
- A: Yes.
- Q: Is the electronics shop where you work in Kabul?
- A: No, in my hometown, Ghazni.
- Q: How far is it from your town to Kabul?
- A: About 140 km.
- Q: How did you, from your town, end up working for the Taliban in Kabul, as opposed to in your own town?
- A: Only my name was with the Taliban group. I didn't do anything with it.
- Q: I don't understand your answer.
- A: I was only with the Taliban system. I had nothing to do with it.
- Q: When you registered with the Taliban, did you register in your town?
- A: I was working with them in Kabul only.
- Q: I still don't understand. From your town, how did you end up working for the Taliban in Kabul?
- A: I was registered with the Taliban, but I didn't have anything to do with them. I was just there, so I didn't go to the war.
- Q: Where did you register?
- A: In Kabul.

- Q: When you registered, did they give you options as to how you would serve them?
- A: Like what?
- Q: Did they say you may have this job or that job?
- A: For the short time, I was doing deliveries for the Taliban.
- Q: When you went to the meeting where you were arrested, you had a pistol. Is that correct?
- A: Yes, all Afghan people carried a gun at that time.
- Q: Was that pistol your pistol, or was it provided to you by someone?
- A: It was my personal pistol.
- Q: Do you speak English or understand English?
- A: Yes, I do.
- Q: Did you provide translation services for either the Taliban or the Americans?
- A: I never translated for the Taliban.
- Q: In the summary of the evidence, it says that you served the Taliban Intelligence Service as a driver and as a clerk. Did you have any other responsibilities for them?
- A: I was not a cook or a translator. All I was, was delivery. For the short time I was only doing delivery. I wasn't translating or cooking either.
- Q: When you say delivery, what exactly do you mean?
- A: I had a small motorcycle...I was transporting small cars.
- Q: Give us an example of what you would deliver and to whom.
- A: I was transporting... the person that I was responsible, had a motorcycle...I was transporting, the guy that was the sponsor; I was transporting his car back and forth.
- Q: Would you transport people in the cars, as well?

- A: No.
- Q: It would appear to us that to work for the Taliban Intelligence Service is a position of trust.
- A: No, anybody can take the job out there.
- Q: Certainly the Taliban would not allow someone they did not trust to serve them in their Intelligence Service.
- A: I wasn't working as intelligence. I was working in security.
- Q: Tell us more about your responsibilities in security.
- A: Those that lost their personal property, they were coming to complain, and I was looking for that... I'm sorry, I wasn't doing that. The location that they come and report it, that's what they (inaudible). Those people that lost personal stuff or whatever.
- Q: I'm not sure I quite understand the answer as it relates to my question.
- A: Can you repeat the question?
- Q: In the statement that you gave to us, through your Personal Representative, I believe you said that one of your responsibilities was that you provided security for a small group.
- A: I was working for a small district, and that was my responsibility for the security.
- Q: Did you have the responsibility to provide security for individuals?
- A: I wasn't the one doing that. Our office handling the case, they were responsible for the area. I wasn't the person doing it.
- Q: Did you carry your personal pistol whenever you were on duty?
- A: Even before I joined the Taliban, I still had my own personal gun.
- Q: Are you proficient in firing weapons?
- A: No.
- Q: Did the Taliban require you to use your weapon?
- A: No, I wasn't at war.

Q: During the time when you were working for the Taliban, did you ever have to use your weapon?

A: I never used my gun against anybody.

Q: With your weapon, did you ever go to a firing range, a training range in Kabul?

A: I never went to a firing range.

Q: Your weapon was never fired, at all, in Kabul?

A: No.

**Summarized Answers to Questions by Tribunal President**

Q: Where did you learn the English language?

A: In the city of Ghazni, my hometown.

Q: Was it at a school or college?

A: It was personal courses.

Q: Making reference again to the Unclassified Summary of Information, it indicates that when you were captured, you had in your possession ammunition.

A: Yes, I had a gun and I turned it in to the Americans.

Q: Besides the pistol, did you have any other weapons or ammunition in your possession?

A: No.

Q: Had you ever received training on any other weapon, besides the pistol?

A: No, I didn't have any other training on other weapons.

Q: Very well, thank you.

**Summarized Answers to Questions by Tribunal Members**

Q: What caliber was your pistol?

A: The name was Makarov, I don't know the size of it.

Q: How many years of formal education have you had?

A: I only had 5 years. Unfortunately I couldn't have any more.

Q: What was the highest level you were able to attain?

A: 6<sup>th</sup> grade.

Q: How old are you right now?

A: About 26 years.

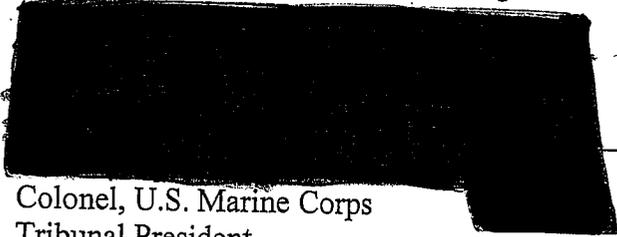
No further questions.

**Summarized Unsworn Detainee Statement**

I have no further statements. All I want to say is that I am not guilty. I am asking for your help. I never was against the [United] States or [the Northern] Alliance.

**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

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #2 \_\_\_\_\_  
ISN #: \_\_\_\_\_ 003 \_\_\_\_\_

**1. Introduction**

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

**2. Synopsis of Proceedings**

The unclassified summary of evidence presented to the Tribunal by the Recorder asserted that the Detainee admitted being a member of the Taliban. He was recruited into the Taliban by a supervisor in the Taliban Intelligence Service. The Detainee claimed to have worked as a driver and as a clerk from 1999 until his capture by U.S. forces. The Detainee was captured in the company of a senior Taliban intelligence member, Abdul Haq Wasiq, on 9 December 2001. The Detainee was in possession of 7.62 mm ammunition rounds when captured. The detainee chose to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made an oral, unsworn statement.

The detainee, in his oral statement, admitted being a Taliban member but only admitted to performing low-level jobs and having minimal responsibilities. He denies having engaged in hostilities against the United States or the Northern Alliance.

**3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a through D-d, R-1 through R-15
- b. Unsworn statements of the detainee

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

The Detainee requested no witnesses nor requested any evidence be produced; therefore, no rulings on these matters were required.

## 5. Discussion of Unclassified Evidence

a. The Tribunal found the following unclassified evidence persuasive in making its determinations:

(1). Exhibit R-1, 25 August 2004, was partially persuasive in assisting the Tribunal in making its determination as to whether the Detainee was properly classified as an enemy combatant. The exhibit familiarized the Tribunal with the nature of the information concerning the Detainee, but was only partially persuasive because it was unsupported by any additional evidence.

(2). See the Classified summary for discussion of Exhibit R-3, marked "For Official Use Only/Law Enforcement Sensitive ("FOUO/LES")"

b. The Tribunal found the following unclassified evidence unpersuasive in making its determinations:

(1). Exhibit R-2, dated 6 August 2004, is a request by the Federal Bureau of Investigation (FBI) to redact information from the record of its interviews with the detainee. This interview is recorded on "FD Form 302" (in this case, dated 5 April 2002). The FBI asserts that the redacted information relates to the national security of the United States and that its inappropriate dissemination could damage the national security of the United States and compromise ongoing FBI investigations. Although the FBI provides an accompanying certification that the redacted information does not support a determination that the detainee is not an enemy combatant, it provides no justification or supporting evidence for this position. As such, this declaration, on its face, was not helpful to the Tribunal in reaching a determination as to whether the Detainee was properly classified as an enemy combatant.

(2). Detainee Exhibit D-d (the Detainee's statement as introduced to the Tribunal by the Personal Representative) and the Detainee's statements at Enclosure 3 were, for the most part, not persuasive to the Tribunal, especially when the questions asked of the Detainee are included for consideration. Tribunal members were frustrated at the Detainee's nonresponsive answers to the questions posed to him. When these unclear answers kept occurring, and the Tribunal members verified that translation quality was not at issue, the Tribunal members gradually became convinced that the Detainee was intentionally not providing responsive answers to the questions that were asked.

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

**6. Consultations with the CSRT Legal Advisor**

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

**7. Conclusions of the Tribunal**

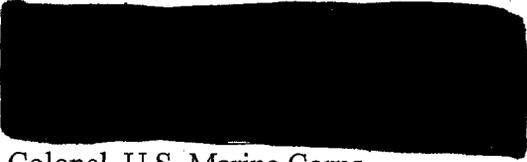
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

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

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps  
Tribunal President

UNCLASSIFIED//~~FOUO~~

Recorder Exhibit List  
For

ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Redaction Memo dtd 6 Aug 04	UNCLASSIFIED
R3	FBI 302 dtd 05 Apr 02	FOUO, LES
R4	CITF Form 40 dtd 06 May 04	SECRET//NOFORN
R5	JTF-GTMO Memorandum for Record dtd 02 Mar 02	SECRET
R6	JTF-GTMO Assessment Memo dtd 29 Mar 04	SECRET
R7	JTF-GTMO Memorandum for Record dtd 19 Feb 02	SECRET/NOFORN
R8	Polygraph Report of Examination dtd 19 Mar 04	FOUO, LES
R9	OSD/SOLIEC Review Checklist	SECRET/NOFORN
R10	JTF-GTMO Baseball Card 000003	SECRET/NOFORN
R11	JTF-GTMO Baseball Card 000004	SECRET/NOFORN
R12	JDIMS Associated Persons for ISN 003 - Qari Ahmadullah	SECRET/NOFORN
R13	CITF-CDR Memo dtd 26 Mar 2004	SECRET/NOFORN
R14	FBI 42 Reply for ISN 003 dtd 30 Aug 04	SECRET/NOFORN
R15	Flow CHART	SECRET/NOFORN

UNCLASSIFIED//~~FOUO~~

**Combatant Status Review Board**

TO: Personal Representative

25 Aug 04

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal – Detainee Ruhani, Gholam

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

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

3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of the Taliban.

a. Detainee is a member of the Taliban.

1. Detainee admitted being a member of the Taliban. A supervisor of Taliban Civilian Intelligence recruited the detainee into the Taliban.
2. Detainee served as the driver for a Taliban Intelligence Service member and performed clerical work for the Intelligence Service in Kabul, AF, from 1999 or 2000 until his capture by U.S. forces in December of 2001. The detainee was required to carry a pistol in this job.
3. Detainee was captured with a senior Taliban intelligence member, Abdul Haq Wasiq, by U.S. forces on 9 Dec 2001. Detainee was in possession of 7.62MM rounds when captured.

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.

Lt Col [redacted]  
28 Aug 04  
Schedule [redacted]  
Tribunal

Detainee Election Form

Date/Time: 27 AUG 04  
Start/End Time: 1550-1715 (1 hr. 25 mins)

ISN#: 003

Personal Representative: Lt Col [redacted]  
[Name/Rank]

Translator Required? Yes Language? Farsi (also speaks Pashtu + some English)  
CSRT Procedures Read to Detainee or Written Copy Read by Detainee? Yes

Detainee Election:

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

Personal Representative Comments:

Detainee wants to make a statement through the PR. I took notes + reviewed the info. with the detainee. He was cooperative + understood the process. Schedule Tribunal soonest. No Final Session necessary.

[redacted signature]

Personal Representative



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN 003

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 marked<sup>1</sup>. The FBI makes this request on the basis that said information relates to the national security of the United States<sup>2</sup>. 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.

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

<sup>2</sup>See Executive Order 12958

UNCLASSIFIED

SUBJECT: Detainee statement to be presented through the Personal Representative at the Combatant Status Review Tribunal, 31 Aug 04

Relative to the US Government's Unclassified Summary of Evidence, dated 25 Aug 2004, determining that I am an Enemy Combatant, I, Gholam Ruhani, state the following:

I was forced into the Taliban Regime. The Taliban was the government. It was not pleasant for me to be there. I had a good life in the past. I had a store selling electrical equipment. My family and I worked in the shop. The Taliban law was that young people had to join the Taliban. I had to join but protested several times that I have an old father and I wanted to go back to my family. I wasn't with the Taliban full-time. I was still running my store. I was required to check in with them every ten to fifteen days. One of the things I was required to do was working security for a small group.

If I had not cooperated with the Taliban Intelligence Service member, I would have been sent to the front lines. I was afraid I would be killed. In order to help cooperate with the Americans, I provided English to Pashto translation at the 9 Dec 2001 meeting during which I was captured. I thought it was a friendly meeting at which I believed I was on the American's side. Abdul Haq Wasiq and Haji Olam Mohammed and an American called Tony were present at this meeting. I turned over my pistol and ammunition to the American as an act of faith because it was a friendly meeting. Everyone in Afghanistan carried a weapon at that time. I expected to leave the meeting and return to my life, my shop and my family. Instead, we were arrested.

---

Gholam Ruhani

UNCLASSIFIED

### Personal Representative Review of the Record of Proceedings

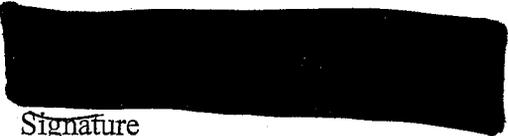
I acknowledge that on 2 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #003.

I have no comments.

My comments are attached.

  
Name

2 Sep 04  
Date

  
Signature

ISN #003  
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABDUL HAQ WASIQ, )  
)  
)  
Petitioner, )  
)  
v. ) Civil Action No. 05-2386 (RBW)  
)  
GEORGE W. BUSH, *et al.*, )  
)  
Respondents. )  
\_\_\_\_\_ )

**DECLARATION OF DAVID N. COOPER**

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdul Haq Wasiq 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: 11 August 2006

  
\_\_\_\_\_  
David N. Cooper  
Lt Col, JAG Corps, USAFR



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 050

25 FEB 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 004**

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 #004 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~~

25 Jan 05

## MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SRC*Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN #004Ref: (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 #12 of 29 Sep 2004  
(2) Record of Tribunal Proceedings

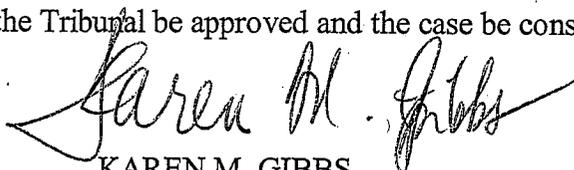
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and elected to participate in the CSRT by attending the CSRT, and providing a sworn statement, which consisted of responses to the allegations set forth in Exhibit R-1 to Encl. (2). In addition, the detainee responded to questions posed by his personal representative and by Tribunal members. See Enclosure (3) to Encl. (2).
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b).
- d. Note that some information in Exhibit R-18 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 documentary evidence be produced. However, the detainee did request that his brother, Abdul Bari, be produced to testify at the CSRT. The detainee proffered that his brother could attest to the fact that the detainee was in Ghazni during the fighting in Afghanistan, which the Tribunal determined would be relevant testimony. As such, the Tribunal forwarded a request to the Afghani Embassy through the United States Department of State to locate and produce the witness. However, the Afghani government failed to respond to the initial request of 1 November 2004, or to either of the follow-up requests of 15 and 22 November 2004. Therefore, the Tribunal determined that the witness was not reasonably available. This determination was proper.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 004

- f. The Tribunal's decision that detainee #004 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.
  3. I recommend that the decision of the Tribunal be approved and the case be considered final.



KAREN M. GIBBS  
CDR, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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

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

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

MEMBERS:

██████████, Colonel, U.S. Marine Corps Reserve; President

██████████, Lieutenant Colonel, JAGC, U.S. Army;  
Member (JAG)

██████████, 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

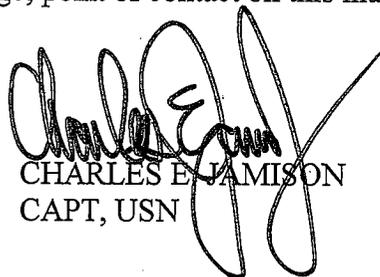
21 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 004

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

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

  
CHARLES E. JAMISON  
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL:   #12  

(U) ISN#:   004  

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

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U/~~FOUO~~)  
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)  
(3) (U) Summary of Detainee/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 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 30 November 2004, after reconvening, the Tribunal determined, by a preponderance of the evidence, that Detainee #004 is properly designated as an enemy combatant, as defined in reference (c).

3. (U) In particular, the Tribunal finds that this Detainee is a member of, or affiliated with, al Qaida and Taliban forces that are engaged in hostilities against the United States and its coalition partners, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

  
Colonel, U.S. Marine Corps  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL:           #12            
ISN #:           004          

**1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal finds that this Detainee is properly classified as an enemy combatant because he is a member of, or affiliated with, al Qaida and Taliban forces that are engaged in hostilities against the United States and its coalition partners. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

**2. Synopsis of Proceedings**

The initial session of this Tribunal, held on 25 October 2004, was conducted with translation for the Detainee provided in Farsi. In the course of discussions with the Tribunal President, the Detainee indicated that the Farsi translations were inadequate to allow him to understand the proceedings. He requested that the proceedings be translated into Pashtu. To accommodate that request, the Tribunal President recessed the hearing. A Pashtu translator was present at the resumption of the hearing on 30 November 2004.

At the resumed hearing, the Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), alleged that: the Detainee was associated with al Qaida and the Taliban in that the Detainee, in a letter to his brother, included greetings to an al Qaida member; the Detainee was the Taliban Deputy Minister of Intelligence; the Detainee used a radio to communicate with the Taliban Chief of Intelligence; the Detainee participated in military operations against the coalition; and the Detainee was involved in the operation to re-establish the front lines in Konduz, Afghanistan. The Recorder called no witnesses.

The Detainee participated actively during the hearing, responding to each of the allegations on the Unclassified Summary of Evidence. Afterwards, he answered questions from the Tribunal members. The Detainee's testimony, including his responses to the questions posed to him, is summarized in Enclosure (3) to the CSRT Decision Report. The Detainee requested that his brother appear as a witness, however, that request was ultimately denied because the witness was not reasonably available. The

Detainee requested no documentary evidence. Details concerning the witness request are provided in paragraph 4, below.

**3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-18.
- b. Testimony of the following Tribunal approved witnesses: none.
- c. Sworn statement of the Detainee. See Enclosure (3) to the CSRT Decision Report.

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

The Detainee requested (no witnesses) (the following witnesses be produced for the hearing):

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Abdul Bari (Brother of Detainee)	Relevant but not reasonably available	*No

\*As of the date of the commencement of this Tribunal, the Detainee had requested no witnesses. However, during the recess discussed above, the Detainee made a request for one witness, his brother. Based upon the Detainee's proffer, the Tribunal President concluded that the witness' expected testimony appeared to be relevant. In accordance with CSRT procedures, the request was forwarded to the U.S. Department of State, which in turn forwarded it to the Embassy of Afghanistan. The initial request for the witness was made on 1 November 2004 and a follow-up request was sent on 15 November 2004. After the initial suspense date had passed, a third request was made on 22 November 2004. Having received no word from the Government of Afghanistan, the Tribunal President ruled that the witness was not reasonably available at the resumption of the hearing on 30 November 2004.

The Detainee requested no additional evidence be produced.

**5. Discussion of Unclassified Evidence**

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

- a. The Recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this Exhibit 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 contained no useful information. Accordingly, the Tribunal had to look to the Detainee's testimony and to the 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 testimony. The Detainee, in his sworn verbal statement, disagreed with aspects of the Unclassified Summary of Evidence, and concurred with others. Specifically, he denied knowledge of any letter to his brother that included a greeting to an al Qaida member. He also stated that he was not on the frontlines in Konduz, and in fact had never been in Konduz. He did admit that he was a member of the Taliban government as Deputy Minister of Intelligence, and that he used a radio to communicate with the Chief of Intelligence. He stated that the radio was used in lieu of a landline telephone because the Afghanistan phone system was not adequate to support basic, normal communication. A summarized transcript of the testimony, both at the initial session on 25 October 2004 and the resumed session on 30 November 2004, is attached as Enclosure (3) to the CSRT Decision Report.

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 and actively participated in the Tribunal proceedings. All of his questions were satisfactorily answered by the Tribunal President.

c. The Detainee is properly classified as an enemy combatant because he is a member of, or affiliated with, al Qaida and Taliban forces that are engaged in hostilities against the United States and its coalition partners.

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps  
Tribunal President

Summarized Sworn Detainee Statement

*The Tribunal was reconvened on 30 November 2004 after a recess from the initial session, which was convened on 25 October 2004.*

*The Tribunal President read the Hearing Instructions to the Detainee, and confirmed he understood the Tribunal process and had no questions.*

*The Recorder then read in full the Unclassified Summary of Evidence to the Tribunal.*

*The Tribunal President explained to the Detainee that the Witness requested was relevant, but not reasonably available despite numerous attempts, and would not be present for the Tribunal.*

*The Tribunal President informed the Detainee he would have the opportunity to respond to the allegations, and he was then administered the Muslim oath by the Recorder.*

*At this time, the Personal Representative read each allegation individually to allow the Detainee the opportunity to respond.*

*3a. and 3a.1. The Detainee is associated with al Qaida and the Taliban. The Detainee, in a letter to his brother, included greetings to an al Qaida member.*

Detainee: What is the proof?

Personal Representative: I can remind you that currently the Tribunal is only aware of the Unclassified Summary and what you tell them; they have not reviewed any additional evidence.

Detainee: Where is the secret document? Before this I have one question: Every member of the Tribunal swore, except him, what happened to him?

Tribunal President: He is the Recorder, and as I indicated to you earlier, the Recorder, Reporter and the Translator had previously been sworn.

Detainee: Why did you go under oath in front of me and not them?

Tribunal President: Because we are the ones deciding your fate today. We have come here with an open mind to determine if you have been properly classified as an enemy combatant. This (holding the Unclassified Summary of Evidence) is all we've seen about you; unlike other Detainees we have not seen you other than on the 25<sup>th</sup>. Otherwise, we don't see the Detainee prior to the day of the Tribunal.

Detainee: No problem.

Tribunal President: (In regards to) your reference to the classified information; classified information has national security interests, and we have no authorization to make it available to you without a security clearance.

Detainee: What do you mean? If you tell me the security of the nation will be destroyed?

Tribunal President: There could be items of national security interest; yes.

Detainee: Basically I heard a court is where a judge sits, and the prosecutor brings evidence against the Detainee. The prosecutor is supposed to bring proof; what kind of proof does he have?

Tribunal President: First of all, let me clarify; we are not here to punish you today. This is not a court, but an administrative, non-judicial hearing.

Detainee: Most of the time you call me an enemy combatant; if you call me this, I need proof.

Tribunal President: Unfortunately since you have no witnesses, and the Recorder has no witnesses, the only information available in this open session will be the Detainee Election Form, the Unclassified Summary of Evidence and your statement, should you choose to give one.

Detainee: Why did I come here? Of course, I will answer your questions.

Tribunal President: Are you ready to do that?

Detainee: Obviously, he (the Personal Representative) asked me if I would join, and yes, I will join.

Tribunal President: We welcome your participation.

Detainee: The reason I asked him to provide evidence is because he told me I wrote a letter to my brother. I'm asking, where is the letter?

Tribunal President: I have not seen the letter.

Detainee: You ask him because he accused me of writing this letter. I am telling you I did not write such a letter.

Tribunal President: That's fine; you may say that, but if the letter is a part of the classified evidence, no one will see it in this open session. This is where you provide us with all the information you want to in reference to the unclassified evidence.

Detainee: My answer is I don't know about the letter, and I did not write the letter.

Tribunal President: OK; thank you. That's not so difficult, is it?

Detainee: I asked my Personal Representative who told him about the letter, and he told me, the interrogators. In the past three years of interrogation, no one has mentioned such a thing. I am surprised that over the past three years no one told me anything except for today.

Tribunal President: We'll probably be surprised, too, when we read more about your case. Please continue.

*3a.2. The Detainee was the Taliban Deputy Minister of Intelligence.*

Detainee: Yes, I was this, and I will tell you why. Before the Taliban captured Kabul, I was in Quetta, Pakistan, studying. When I came home, the Taliban came and recruited people by force to Kabul. Someone by the name of Kalmi Abdul Magduli (ph) sent an individual to tell me that the Taliban will recruit me by force. Why should you come by force, when you can come at your own will? This was a threat, so I went with them because I had to. Because he was from my own province, he liked me and wanted to move me up. More educated people were working for the ministry than me. When his undersecretary was sick, he told me to take his position until he got better. He got sick and didn't get better, so I continued doing the job. I confessed this, and I will confess again. My job was against thieves and bribes; I was fighting against those kinds of people.

*3.a3. The Detainee used a radio to communicate with the Taliban Chief of Intelligence.*

Detainee: He was in charge of the intelligence, and was the governor of the whole province. I did not call him; he called me on the radio because he was in charge of us. He gave us our jobs to do, and we couldn't do anything without his order. You know if you have a boss you have to listen to him. The times he called me on the radio was way before September 11<sup>th</sup> in America. He was governor, and when he was removed, he went back to his previous job in Kabul. I will say again that the times he called me on the radio were way before what happened in America. If this makes me guilty, then I did that. Because we don't have telephones, we have to use radios to communicate. For example, your guards here don't use telephones; they use radios to communicate with each other. I am asking you, the judge, if this makes me guilty, then I am guilty.

Tribunal President: Just for clarification, I am not a judge; I am a military officer assigned as President of this Tribunal.

Detainee: But I thought you meant you were a judge? You told me you were a judge.

Tribunal President: Just a miscommunication.

Detainee: But you decide the good, or bad; you tell me if I am right, or not right.

Tribunal President: That is what we'll try to do; determine if you've been properly classified as an enemy combatant today; continue, please.

3.b and 3.b1. *The Detainee participated in military operations against the coalition. The Detainee was involved in the operation to re-establish the front lines of Konduz, Afghanistan.*

Detainee: About this charge, I can tell you I was not a military individual; I was a civilian employee. I was not the Defense Minister of Afghanistan, or a military commander. You know the military forces belong to the military, and do military things. The other thing, American forces caught me in the province of Ghazni. You may ask them if they caught me in Ghazni, or in Konduz. All of my life, I never went to Konduz. All I know of Konduz is that it's in the north, and my province is in the south. Since you are accusing me of rebuilding the front line, then how did I do this and go back and get captured there? They are far apart from each other; not like from this block to that block. For the past three years, I was not accused of doing anything in Konduz; not one word have interrogators asked me about this thing.

#### **Tribunal Member Questions to Detainee**

Q: Good afternoon, Mr. Minister. Seldom before have we had someone of such prestige and responsibility.

A: That was my job, whatever you call it.

Q: Earlier you said you were in Quetta, Pakistan, before being called to duty; what were you studying there?

A: I was learning how to pray, and about religious studies. I told my interrogators in detail about this.

Q: How long was your course of study?

A: I previously mentioned the approximate date I studied, but I forgot. I was there when the Russians were in Afghanistan when I was just a little boy.

Q: How long did you live in Pakistan?

A: I can't tell you now exactly, but I told you I told interrogators approximately how long I lived there.

Q: Could you approximate or guess?

A: Approximately 2 or 3 years.

Q: Were you studying to become a mullah or religious leader?

A: Who could become a mullah and feed their family? I went because of the Russians, so I could survive. Who could afford to study for a long time to be one? We had an economic problem, so I could not be a mullah.

Q: Ultimately it was your goal to return to Afghanistan when it was safe?

A: When? Of course. Afghanistan was my home. What would I do in a foreign country? I was living in mosques.

Q: Prior to your work in intelligence and religious studies, how did you support yourself or make a living? Before you began religious studies, how did you support yourself?

A: I was a young boy, working on our land. Thank God we had land. If you want to ask, I know how to farm. My grandfather and my father were farmers.

Q: So it sounds as though you had no special skills related to intelligence.

A: No.

Q: When Mr. Ahmadullah called you to work for him, it's because he trusted you, not because you had a background in intelligence?

A: No, the Taliban was recruiting lots of people. Everyone was trying to bring their own people into their own organization.

Q: I would think it would be most difficult for a farmer and religious student to suddenly become Deputy Minister of Intelligence with no background and no training.

A: Basically, many of the interrogators asked the same question, but I said, don't think the Afghanistan government is the same as the U.S. government. Ahmadullah himself was not educated; he is not here, but I tell you he is not educated.

Q: How did you know how to perform your duties then?

A: Basically, it would take me a long time to explain the details about this subject. Afghanistan at the time of the Taliban was not organized. Everybody was recruited to work for the government. Many of the employees in the Ministry were much more educated than me and Ahmadullah.

Q: How long did you serve in that position approximately?

A: A different subject if you want to interrogate me all over again, because I previously provided that information to interrogators.

Q: Well, as the President told you, we haven't seen your file. I'm hoping you'll be patient enough to tell us.

A: I meant no problem that you are asking, even if you have a hundred questions, but call me more often; it takes a long time for me to provide the information.

Q: I just wondered if you served the Taliban for two years, or how long you had served?

A: I told you previously between approximately 2 ½ -3 years I was with the Taliban, but not as an Undersecretary of Intelligence in Kabul.

Q: Did you serve in other capacities?

A: I told you again, you can call me tomorrow when we have more time, so I can tell you in more detail. You probably don't have enough time to listen to my story.

Q: This is the time we've reserved for you today; I'm hoping you'll be willing to tell these things about you so we can make a more informed decision.

A: I told you approximately between 2 ½ to 3 years; sometimes Undersecretary of Intelligence, sometimes not.

Q: Do you want to say what other capacities you served in during that 2 ½ years when you were not the Undersecretary?

A: I told you before, I was called to be put into the position of intelligence. He put me in the guesthouse; I was living in the guesthouse.

Q: What were your duties while you were there?

A: I told you, according to our culture in Afghanistan, people are given high positions; people go to the guesthouse to greet him. I was cooking for them.

Q: Cooking for whom?

A: No, no. For example, when you are given a new position, Kabul city people would come to greet and congratulate you. We would provide food for them at the guesthouse.

Q: So they had come to congratulate you on your new position; is that what you are referring to?

A: No, no, no. At that time, I was not in the position of the Undersecretary; it was the same Undersecretary in the guesthouse, and I went to that house; people were coming to greet him.

Q: I'm not sure I quite understand what else you did besides serving in intelligence. Was there something else you did for the Taliban?

A: No, no. I told you I that I was working, and took his position only when he was sick. When he was working, I was not doing anything except taking a place in the guesthouse.

Q: Regarding earlier comments concerning Konduz; you said you'd never been there, and in fact were captured in a place far from there; is that correct?

A: You can ask your own soldiers; anything I tell you, you don't believe.

Q: I suppose the way it is worded here (Unclassified Summary), you were part of the operation to re-establish the front lines, and this doesn't require you to have physically been there.

A: I told my interrogators that I was not in Kabul; I was living at home. I told you I'm not military and have nothing to do with the military.

Q: Yes, but as the Minister of Intelligence, as a senior government official, you give orders to men and they follow them.

A: I was working inside of Kabul, and had an employee there; I had no one in Konduz.

Q: So are you saying that whatever this operation was, you were not involved in any way?

A: No.

Q: What is your attitude towards the United States?

A: According to what?

Q: Given everything that has happened over the past few years, good or bad, what is your opinion of the U.S.?

A: You mean that now that you are in Afghanistan?

Q: That or anything else you wish to address.

A: Before my capture I did not know or study about Americans. I heard on the radio on the BBC that Americans respected human rights and I was happy at that time. I also

heard Americans would not tell anybody if they could or could not practice their religion, and I learned that here.

Q: Is there anything else you wish to add?

A: You ask me and I answer you.

Q: You operated the guesthouse near Kabul, right?

A: Yes.

Q: You were doing this and sometimes doing the Deputy Minister's job, is that correct?

A: When he was sick?

Q: When he wasn't in the office, you were in charge?

A: Yes, when he was sick, then I was in charge.

Q: So you were familiar with the area of Kabul?

A: Before that, I was not familiar. But, when I went there, I spent time there.

Q: So you were familiar with the area of Kabul?

A: I swear to Allah I spent some time in Kabul, but still don't remember the names of many places in Kabul.

Q: I would expect that you'd have recollection of the more prominent places.

A: I told you I was busy working, and did not go to be familiar with many parts of the city.

Q: But you should know or be familiar with what is around the city.

A: I was not a regular employee to go around the city; I was sitting in my office.

Q: And your office was where?

A: In Kabul; a place called Shardinow (ph).

Q: What did you think of the six al Qaida training camps that were around Kabul, any of them?

A: I don't know. I swear to Allah that this is the first time I heard from your mouth that there were six training camps outside of Kabul. I heard from you there were al Qaida training camps. I don't know, I just now heard this from you now.

Q: Your capture; did you have enemies that brought evidence against you that led to your capture?

A: Why not? Do you not know that in Afghanistan everyone has lots of enemies there?

**Tribunal Member Questions to Detainee**

Q: When the Deputy Minister of Intelligence was sick and you would fill in, how long a period of time would that be?

A: Approximately, 6, 7, 8 or 10 months at a time.

Q: Were you really busy when filling in for the Deputy Minister?

A: How?

Q: Busy, as in a lot of work; very involved with the duties of that particular office?

A: It wasn't like I was very busy; it wasn't like I had nothing to do.

Q: What were some of the duties or responsibilities of that office that you carried out for the Deputy Minister?

A: I told you, when the accusation was written my job was to fight against the thieves and people that took bribes. Because security was very important to the Taliban, they were trying to spend lots of time on these types of matters.

Q: So this was more of a police type of responsibility?

A: You asked me a very good question. Previously, I told my interrogators to ask why the intelligence member is working a police job. The Taliban had their reasons, and they were these: first, all of the people in the intelligence community with a position in that area were not educated. The people who were intelligence employees before the Taliban took over kept that position; they told us they didn't have enough money to provide a salary since we were uneducated, but this is why we are using you in this manner. They were left over from the Communist regime or Massoud's era. If you ask me why we didn't get rid of them, it was because they knew how to do the job and we needed them. For example, I cannot write any statements about the Tribunal; anybody knows better than me. This was the reason I did not do this job, and the delegation of the Afghan government asked me the same question. I told the delegation if you accuse me of being

involved with any part of politics, you are wrong, because you know more about me in there.

**Tribunal President Questions to Detainee**

Q: During the times that you would carry out those duties as Deputy Minister, did you ever encounter known al Qaida members?

A: No. Before my capture, I heard on the radio that al Qaida members were in Afghanistan. I thought all of them, maybe a few, would be on top of a mountain somewhere. When I came to Cuba I saw all of these al Qaida members and Arabs.

Q: So was it Konduz in which there was no al Qaida?

A: I told you, sir, I didn't go to Konduz; my job was in Kabul.

Q: That's right; that was my mistake there; so in Kabul, where your job was, there was no al Qaida?

A: I did not know. If anyone can prove we had anything to do with al Qaida, then I am guilty. I did not have anything to do with al Qaida in Kabul.

Q: Had they been there, you would've known?

A: How would I know? Kabul is not a small place; it is a huge area for a person who does not know how to take care of the place, how would he know?

Q: Some of the people that worked for you in intelligence or in police work, would they know about that?

A: I told you, I don't know if they knew or didn't. I didn't have a connection, and never even asked if there was al Qaida.

Q: We heard al Qaida would pay large sums of money for support or favor. If your ministry was working on minimizing bribery, I thought you might become aware of those kinds of things.

A: I wish that these oppressors would give me some bribes so I could make some money. We have an old saying that you cannot hide the moon with two fingers. I worked in Kabul; still the employees of ex-intelligence community are working for the government now. You can go look at those files to see if we arrested, investigated or contacted any al Qaida; you could find out. Previous interrogators asked me if I made lots of money as an intelligence officer over there; I said to go see my office, we still have no running water over there. My office did not even have running water, and employees had no restroom. We did not have window, and had to use plastic to shield from the cold. I told the

interrogators if we made lots of money we'd at least bring running water to our office. The enemies or wrong accusers are making us look very big to you.

Q: Did your personal home have running water? Where you were working in Kabul?

A: In the beginning I didn't bring my family to my house, but in the end I brought my family. The house we rented in Kabul was from the dirt; and yes, we had water. Three hours in twenty-four hours we had water; we took the water inside the barrel and then we had water.

Q: As I mentioned earlier, the witness you requested was unfortunately not available today; if he had been able to provide information on your behalf, what would he have said?

A: First, my brother is against me. Because when I wanted to work for the government, he told me your father and grandfather didn't work for the government, you should not work for the government. Although he is my enemy because I didn't do what he asked me, he could still tell you where I was at the time of the fighting in Konduz. When there was fighting in Konduz and Kabul, he could tell you where Abdul Haq (the Detainee) was, because he saw that I was home. You could ask your own soldiers because they know this.

Q: So when there was fighting in Kabul, you were not there serving as Deputy Minister?

A: No. At that time, I left my job and was living at home.

Q: What time of year was that?

A: When the bombardment started in Kabul, I left my job and went home.

Q: That's a pretty good indicator that it's time to punch the clock out.

***The Tribunal President then thanked the Detainee for his testimony, and confirmed he had no more questions. One Tribunal Member had one final question of the Detainee:***

Tribunal Member: Do you know what has become of Mr. Qari Ahmadullah?

Detainee: Yes, I know.

Tribunal Member: What happened to him?

Detainee: He is under the grave.

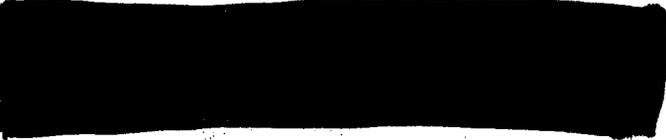
Tribunal Member: Sorry to hear that; I have no further questions.

*The Tribunal President re-confirmed that the Detainee had no additional information or questions for the Tribunal, and thanked him for his participation and testimony.*

*The Tribunal President then explained the remainder of the Tribunal process to the Detainee, and adjourned the open session.*

**AUTHENTICATION**

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

  
Colonel, U.S. Marine Corps  
Tribunal President

DETAINEE ELECTION FORMDate: 20 Oct 04Start Time: 0925End Time: 1100ISN#: 004Personal Representative: [REDACTED], MAJ  
(Name/Rank)Translator Required? YES Language? PASHTUCSRT 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 #004 was very talkative and listened eagerly to the description of the CSRT process. He was frustrated that it has taken 3 years to determine his EC/Non-EC status. The detainee has elected to participate at his tribunal and will make a statement. The classified summary of evidence was read to the detainee and he had issues with several of the points. The detainee admitted that he had been a part of the Taliban when it was a legal government but he never fought against the US. He denied ever writing his brother with a greeting to a Taliban member. He did admit that he had used the radio to talk to the Taliban Minister (not chief) of Intelligence. He stated that he was essentially forced to be part of the Taliban because he could either accept a salary or dishonor his family and possibly be killed. The detainee stated that he had never been to Konduz or has he seen it. He said he was captured in Ghazni where his home was located and he had not fought the Americans or Allies. He stated he has never had any military training. The detainee requested that his brother be contacted as a witness to testify that #004 was at home in Ghazni during the [REDACTED] fighting in Afghanistan.

Personal Representative: [REDACTED]UNCLASSIFIED//~~FOUO~~

Recorder Exhibit List  
For  
ISN [REDACTED]

#	Title	Ref:	Classification
R1	Unclassified Summary		UNCLASSIFIED
R2	FBI Request for Redaction of National Security Information 1 OCT 2004		UNCLASSIFIED
R3	Intelligence Information Report (IIR) 6 034 0020 02		SECRET
R4	Intelligence Information Report (IIR) 6 034 0172 03	3.a.1, 2	SECRET//NOFORN
R5	Intelligence Information Report (IIR) 6 034 0223 02		SECRET//NOFORN
R6	Intelligence Information Report (IIR) 6 034 0420 02	Spt's R18	SECRET//NOFORN
R7	Intelligence Information Report (IIR) 6 034 0724 02	3.a.3	SECRET//NOFORN
R8	Intelligence Information Report (IIR) 6 034 0853 02		SECRET//NOFORN
R9	Knowledgeability Brief dtd 07-FEB-2002		SECRET
R10	Memorandum for Record (MFR) dtd 17-MAR-2002	Spt's R4	SECRET//NOFORN
R11	Memorandum for Record (MFR) dtd 21-SEP-2003		SECRET//NOFORN
R12	Memorandum for Record (MFR) dtd 30-MAR-2002		SECRET//NOFORN
R13	Baseball Card dtd 28_MAY-2004		SECRET//NOFORN
R14	Central Asia Team "Red Memo" dtd 01-SEP-2003		SECRET//NOFORN
R15	CITF-CDR Memorandum dtd 12-SEP-2003		SECRET//NOFORN
R16	Intelligence Information Report (IIR) 6 034 0062 04	Spt's R7	SECRET//NOFORN
R17	JDIMS Baseball Card, ISN 006	Spt's R6,8	SECRET//NOFORN
R18	FBI 302, dtd 14 FEB 02	3.b.1	FOUO//LES

UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (04 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – WASIQ, Abdul Haq

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 the Taliban and also participated in military operations against the United States and its coalition partners.
  - a. The detainee is associated with al Qaida and the Taliban:
    1. The detainee, in a letter to his brother, included greetings to an al Qaida member.
    2. The detainee was the Taliban Deputy Minister of Intelligence.
    3. The detainee used a radio to communicate with the Taliban Chief of Intelligence.
  - b. The detainee participated in military operations against the coalition.
    1. The detainee was involved in the operation to re-establish the front lines in Konduz, Afghanistan.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit 6700 1st

## Memorandum



To : Department of Defense Date 10/01/2004  
 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 marked<sup>1</sup>. The FBI makes this request on the basis that said information relates to the national security of the United States<sup>2</sup>. 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 004 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 02/14/2002

<sup>1</sup>Redactions are blackened out on the OARDEC provided FBI document.

<sup>2</sup>See Executive Order 12958

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 10/01/2004

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

Personal Representative Review of the Record of Proceedings

I acknowledge that on 15 January 2005 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #004.

 have no comments.

My comments are attached.

 Major, USAF

Name

15 Jan 2005  
Date

  
Signature



intelligence operations that is not suitable for public release.

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

Dated: 19 May 2005

Teresa A. McPalmer

Teresa A. McPalmer  
CDR, JAGC, USN



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0357  
08 NOV 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~~

2 Nov 04

## MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # [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 #13 of 4 October 2004  
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and actively participated in the Tribunal proceeding.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-3, R-4, R-5, R-6, R-7, and R-8 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. Also note that paragraph 6 of the Unclassified Summary of Basis for Decision (enclosure (1) of the Record of Tribunal Proceedings) states that the CSRT Legal Advisor was consulted on an issue dealing with the detainee's allegation of abuse. I was not that Legal Advisor.
- d. The detainee did not request witnesses.
- 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 affirmatively declined to submit comments.

UNCLASSIFIED

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

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



T. A. McPALMER  
CDR, JAGC, USN

UNCLASSIFIED



Department of Defense  
Director, Combatant Status Review Tribunals

4 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #13

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

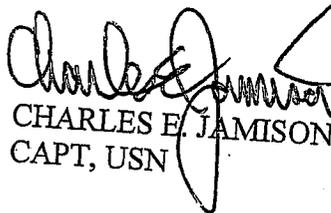
22 October 2004

FROM: OARDEC FORWARD Commander

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

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

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

  
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:     #13    

(U) ISN#:     [REDACTED]    

Ref: (a) (U) Convening Order for Tribunal #13 of 4 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/~~FOUO~~)  
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)  
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)  
(4) (U) Copies of Documentary Evidence Presented (S/NF)  
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened on 14 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 14 October 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, al Qaida and the Taliban, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

Colonel, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #13

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

**2. Synopsis of Proceedings**

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with al Qaida and the Taliban. The Detainee was recruited in Mecca, Saudi Arabia, to take part in jihad on or about 26 December 2000. The Detainee traveled from his home in Saudi Arabia, to Pakistan and crossed the border into Afghanistan. The Detainee received training, including small arms training, at al Qaida's [REDACTED] training camp in Afghanistan. The Detainee was present during the uprising at the al Jenke Prison in Mazar-E-Sharif. Usama Bin Laden visited the [REDACTED] training camp while the Detainee was in training. The Detainee chose to participate in the Tribunal process. The Detainee did not call any witnesses, nor did he request any additional documents or evidence be produced. The Detainee, in his verbal statement, denied being a Taliban or al Qaida member.

**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-24.
- b. Testimony of the following persons: N/A
- c. Unsworn statement of the Detainee

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

The Detainee requested no witnesses and requested no additional evidence be produced, therefore, no ruling on these matters were required

#### 5. Discussion of Unclassified Evidence

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

- a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.
- b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's unsworn testimony and the Personal Representative's notes of his interviews with the Detainee. A summarized transcript of the Detainee's unsworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that no one recruited him in Mecca, Saudi Arabia. An unidentified man told the Detainee about the idea of jihad. This unidentified man prepared him for jihad. When asked how this man prepared him for jihad, the Detainee only stated that this is normal for his culture but did not elaborate exactly how he was prepared. This unidentified man put him on a flight to the United Arab Emirates (UAE) but that the man did not train him for jihad. The Detainee stated that he traveled from Saudi Arabia to the UAE, to Pakistan and then to Afghanistan. The Detainee stated that he never trained at the [REDACTED] training camp and never saw Usama Bin Laden. The Detainee stated that he went to Afghanistan for jihad but changed his mind. The Detainee stayed at the border, then traveled to Kandahar, then to Kabul, Afghanistan to a house where he stayed near the front line. The Detainee also stated that he had brief training on the AK-47 while at the safe house. When asked why he returned to Kabul if he had changed his mind, the Detainee stated that he was looking for his friends and that he did not have enough money to return to Saudi Arabia. The Detainee stated that General Dostum sold him to the U.S. and that he was tortured by the Afghans. The Detainee alleges physical abuse, and was forced to make certain statements (i.e., that he was part of al Qaida and the Taliban) to avoid torture. The Detainee confirmed that this alleged abuse occurred before he was taken into custody by the United States.

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

**6. Consultations with the CSRT Legal Advisor**

The Detainee had made statements of alleged physical torture by the Afghans in Afghanistan prior to his detention by the United States. The Recorder informed the Tribunal that these allegations have been reported to the appropriate chain of command for further investigation.

**7. Conclusions of the Tribunal**

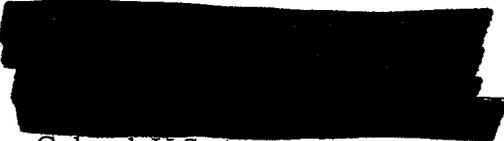
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights but did ask some general questions as to the process of the tribunal and actively participated in the hearing, as indicated in Exhibit D-a.
- c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and was part of or supporting the Taliban.

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

  
Colonel, U.S. Army  
Tribunal President

Summarized Unsworn Detainee Statement

*The Tribunal President read the Hearing Instructions to the Detainee. The Detainee confirmed that he understood the process but did submit a question in regard to the validity of the Tribunal.*

Is this a regular court or is it just hocus pocus?

*The Tribunal President informed the detainee that the Tribunal is an administrative hearing to determine his status as an Enemy Combatant.*

*The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents. A closed session was requested at a later time to present classified evidence to the Tribunal.*

*The Detainee opted to not be sworn and informed the Tribunal that the Personal Representative would assist him in making his statement. The Personal Representative informed the Tribunal President that he would read points contained in the numbered paragraphs in Exhibit R-1 and provide responses on behalf of the Detainee and the Detainee would comment as needed. The Personal Representative read the numbered paragraphs contained in Exhibit R-1 and provided the Detainee's responses to each as follows:*

3.a. The Detainee is associated with al Qaida and the Taliban:

3.a.1. The Detainee was recruited in Mecca, Saudi Arabia, to take part in jihad on or about 26 December 2000.

No one recruited me in Mecca. I met a man who told me about the idea of Jihad. After that I went to Jahdia (ph) and met the man again who prepared me to go to Afghanistan. He gave me money and put me on a plane to the Arab Emirates first going to Pakistan. The man I met just gave me the idea. He didn't train me or anything like that. He just gave me the idea about fighting. I went from Jahdia (ph) to Konduz.

3.a.2. The Detainee traveled from his home in Saudi Arabia to Pakistan and crossed the border into Afghanistan.

I went from Saudi to the Arab Emirates to Pakistan then I crossed to Afghanistan.

3.a.3 The Detainee received small arms training at the [REDACTED] training camp in Afghanistan.

I never received any training. I did not go to the [REDACTED] training camp. I first went over to participate in Jihad but when I got there my opinion changed. I stayed for a while at the border for two or three months then went to Kandahar for one week and then to

ISN# [REDACTED]  
Enclosure (3)  
Page 1 of 5.

Kabul. I went to a house that was a cooking facility for the front line. There I was trained on the AK47. I had no job there. I stayed for about five months or less. Then I went to Konduz until we were surrounded and there was an agreement to have all the Arabs delivered to Mazar-e -Sharif. I never went to [REDACTED]. They gave me a polygraph test to prove that I am telling the truth.

3.a.4. The Detainee attended training at al Qaida's [REDACTED] camp in Afghanistan.

This is not true. I took a polygraph test to prove that I was not lying. I was telling the truth.

3.a.5. The Detainee confirmed that he was present during the uprising at the Al Jenke Prison in Mazar-E-Sharif.

I was present but did not participate in the fighting. I escaped during the fight and turned myself in one day after. I went to the market to turn myself in. I met people in the market who were in the Army of Dostom. That is where I was when I was recaptured for the second time. The Dostom sold me to the Americans on my second arrest. They put me in jail and I was tortured by Afghans and forced to say things. I was moved to Kandahar. When I got to Cuba I told the interrogators the real story. I told the story that I told because I was forced when I was in Pakistan. When I got here and talked to the interrogator I told them the real story.

3.a.6. Usama Bin Laden visited the [REDACTED] training camp while the Detainee was in training.

This is completely incorrect. I was never at the training camp and I have never seen Usama Bin Laden.

I have no other statements to make other than I was never at the [REDACTED] training camp and I have never used any weapons or done any fighting. I never went to the [REDACTED] training camp, I never knew Usama Bin Laden, I never met Usama Bin Laden.

***The Tribunal President confirmed that the Detainee had completed his statement. The Tribunal was then opened for questions from its members.***

Tribunal member questions

Q. What is your usual occupation?

A. I am a student.

Q. How far did you advance in your studies?

A. High school.

Q. Have you ever received military training in Saudi Arabia?

A. No.

Q. Who administered the polygraph to you?

A. The Americans.

Q. In Cuba or in Afghanistan?

A. In Cuba. About a year ago.

Q. You mentioned that you received some training on the Kalashnikov.

A. Yes.

Q. What was the purpose of that training?

A. I had nothing better to do....

Q. Were you given a rifle at that point to keep with you or to use?

A. No.

Q. When you were captured did you have a rifle or any weapon with you?

A. No

Q. How did you pay for your trip to Pakistan and to Afghanistan?

A. How do you mean?

Q. How did you get the money for the travel?

A. I had some money and I took some money from the guy that met me and told me about Afghanistan.

Q. The man who spoke with you in Saudi Arabia to talk about jihad, had you seen him before, did you know who he was?

A. No.

Q. Do you know if he belonged to any organization such as al Qaida?

- A. I wouldn't know. He never told me that.
- Q. This man that prepared you for jihad. How did he prepare you?
- A. In Islam, going to fight is a religious activity and is sacred to us. You can become a martyr and that's how he was helping me. In every one of these organizations that's what they are telling them. To become a martyr, you go there to fight.
- Q. Did you go with anybody when you left Saudi Arabia to Afghanistan?
- A. Me and another guy. I met him on the same plane.
- Q. Once you were in Afghanistan, you stated that you changed your mind about jihad. Why did you not leave instead of going to Kabul?
- A. I was looking for some friends and I didn't have enough money to leave.
- Q. Were these friends fighters for the Taliban or al Qaida?
- A. No.
- Q. Have you ever been a part of or assisted al Qaida or Taliban?
- A. No. If you look at the polygraph test it will prove that I am telling the truth that I am neither associated with al Qaida, Taliban, or any other terrorist organization.

Tribunal President questions

- Q. The Unclassified Summary that we have shows a date of December 2000 that you were recruited for this jihad. Did you leave directly and go to Afghanistan at that time?
- A. I can't remember the day but I know the month and year. Hijri year (Muslim calendar) the tenth month in 1421.
- 3.a.1. I was not recruited. It was an idea.
- Q. How long did you stay in Afghanistan?
- A. Less than a year.
- Q. Did you have a job or do anything while you were in Afghanistan?
- A. No.

ISN# [REDACTED]  
Enclosure (3)  
Page 4 of 5

Q. You mentioned that you were forced to say things. Was that in a Pakistani prison?

A. Yes. In a prison in Afghanistan.

Q. Was it physical abuse?

A. Yes.

Q. And once you were taken into American custody, are you stating that there was no more physical abuse?

A. I was talking to the American and explained to him what was going on and the interrogator got upset and just interrupted the meeting and said that I was lying.

*The Tribunal President asked if the Detainee had any further evidence or witnesses to present to the Tribunal.*

The only thing that I have is that polygraph. There are no witnesses. The only witnesses are the people who gave me the polygraph.

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

#### AUTHENTICATION

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

  
Colonel, United States Army  
Tribunal President

ISN#   
Enclosure (3)  
Page 5 of 5



**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (28 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal - MOHAMED, Fahed Nasser.

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 the Taliban.
  - a. The detainee is associated with al Qaida and the Taliban:
    1. The detainee was recruited in Mecca, Saudi Arabia, to take part in Jihad on or about 26 December 2000.
    2. The detainee traveled from his home in Saudi Arabia to Pakistan and crossed the border into Afghanistan.
    3. Detainee received small arms training at the [REDACTED] training camp in Afghanistan.
    4. Detainee attended training at al Qaida's [REDACTED] camp in Afghanistan.
    5. Detainee confirmed that he was present during the uprising at the Al Jenke Prison in Mazar-E-Sharif.
    6. Usama Bin Laden visited the [REDACTED] training camp while the detainee was in training.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

# Memorandum



To : Department of Defense  
Office of Administrative Review  
for Detained Enemy Combatants  
Col. David Taylor, OIC, CSRT  
Date 09/30/2004

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

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

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked<sup>1</sup>. The FBI makes this request on the basis that said information relates to the national security of the United States<sup>2</sup>. 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 08/30/2002  
FD-302 dated 09/06/2002  
FD-302 dated 06/23/2003  
FD-302 dated 06/25/2003  
FD-302 dated 06/27/2003  
FD-302 dated 07/15/2003

<sup>1</sup>Redactions are blackened out on the OARDEC provided FBI document.

<sup>2</sup>See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 09/30/2004

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

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 22 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] LCDR, USN  
Name \_\_\_\_\_

22 Oct 04  
Date \_\_\_\_\_

[REDACTED]  
Signature \_\_\_\_\_

ISN # [REDACTED]  
Enclosure (5)