

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HABIB ULLAH,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-1008 (JDB)

**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:

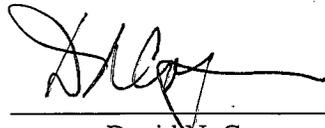
1. I am the Legal Advisor to the Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

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 Habib Ullah that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

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

Dated:

10 August 2006



David N. Cooper  
Lt Col, JAG Corps, USAFR



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 1038

15 MAR 2005

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN #907**

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 #907 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 B. Wiegmann)  
DoS (Ambassador Prosper)  
DASD-DA  
JCS (J5)  
SOUTHCOM (CoS)  
COMJTFGTMO  
OARDEC (Fwd)  
CITF Ft Belvoir

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4238

14 Feb 05

## MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SEC*Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN #907Ref: (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 #7 of 13 September 2004  
(2) Record of Tribunal Proceedings

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

a. The detainee was properly notified of the Tribunal process and elected to participate. *See* exhibit D-a of Record of Tribunal Proceedings. The detainee also provided the Tribunal with a sworn oral statement in question and answer format. *See* enclosure (3) of Record of Tribunal Proceedings. The Tribunal considered the detainee's sworn statement in its deliberations.

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

c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-4 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee did not request that any witnesses or evidence be produced.

e. The Tribunal's decision that detainee #907 is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit post-tribunal comments to the Tribunal. *See* enclosure (5) of Record of Tribunal Proceedings

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

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN #907

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

*Peter C. Bradford*

PETER C. BRADFORD  
LT, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #7

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

22 November 2004

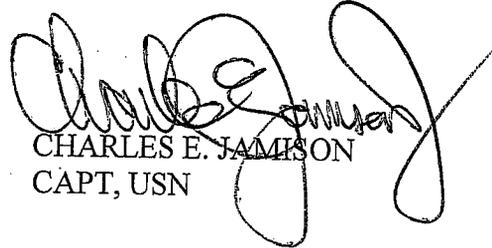
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 907

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

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

  
CHARLES E. JAMISON  
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL:   #7  

(U) ISN#:   907  

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

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

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 5 November 2004, the Tribunal determined by a preponderance of the evidence that Detainee #907 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Taliban forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #7  
ISN #: \_\_\_\_\_ 907

**1. Introduction**

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

**2. Synopsis of Proceedings**

The Tribunal held this hearing on 5 November 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that: the detainee worked for Samoud Khan as a bodyguard and cook in his Mousauwal compound in Zormat, Afghanistan, in December 2001; a senior Taliban commander, and Al Qaida supporter, in Gardez frequently visited Samoud at the Mousauwal compound; Samoud Khan has claimed to be on a jihad against the United States and instructed his men they must do the same; the detainee admitted to being on a jihad; Samoud Khan, with the assistance of others, was responsible for rocket attacks against United States forces from firing positions on Laywan Mountain; the detainee was instructed to fight to the death when American forces raided the Mousauwal compound on 11 December 2002, but surrendered instead; and, just prior to the U.S. forces raid on the Mousauwal compound, the detainee instructed his compatriots to all provide the same false story if captured. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings and responded under oath to each of the allegations on the Unclassified Summary of Evidence. In sum, the detainee admitted that he worked for Samoud Khan and carried an AK-47 with him at all times, but denied being a member of the Taliban or Al Qaida or fighting U.S. or coalition forces. The detainee's sworn testimony and the answers to the questions posed to him are summarized in Enclosure (3) to the CSRT Decision Report. The detainee presented no other evidence.

During the classified session of the Tribunal, the Recorder presented Exhibits R-4 through R-17 (Exhibit R-3 was not offered into evidence) without comment. The Personal Representative neither presented classified exhibits nor made any comments on the classified evidence. After considering all of the classified and unclassified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

### **3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1, R-2, R-4 through R-15, and D-a. The Recorder did not offer Exhibit R-3 into evidence.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The detainee requested no witnesses.

The detainee requested no additional evidence be produced.

### **5. Discussion of Unclassified Evidence**

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

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

b. As noted in paragraph 2, above, the detainee made a sworn statement responding to each of the allegations on the Unclassified Summary of Evidence. Afterwards, he answered questions posed by the Tribunal members. In sum, the detainee denied being a member of the Taliban or Al Qaida; admitted he worked for Samoud Khan as a cook and carried an AK-47; denied any knowledge of a senior Taliban commander/Al Qaida supporter visiting Samoud at the Mousauwal compound; denied

being on a Jihad or fighting against the United States, claiming he only worked as a cook; admitted he previously said Samoud Khan was responsible for rocket attacks against U.S. positions in Afghanistan, but clarified he does not know for sure if they were against U.S. positions or personal enemies of Samoud; admits he told U.S. interrogators in Afghanistan that he was ordered to fight to the death when U.S. forces came to capture him, but says he made the admission under fear of death; and denied ever telling his compatriots to lie. The Tribunal found the detainee's testimony unpersuasive when considered in conjunction with the classified evidence. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3).

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

The Tribunal notified the CSRT Assistant Legal Advisor regarding the detainee's allegations that U.S. personnel in Afghanistan forced him to admit things that weren't true by stripping him of all of his clothes, beating him, and threatening to turn dogs loose on him (see Enclosure (3) to the CSRT Decision Report). As per instructions, the OARDEC Forward Chief of Staff and the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO were notified of the matters on 5 November 2004.

#### **7. Conclusions of the Tribunal**

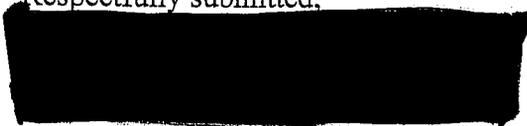
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

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

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

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

  
Colonel, U.S. Army  
Tribunal President

Summarized Sworn Detainee Statement

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

*The Recorder presented Exhibits R-1 and R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).*

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

*The Recorder administered the Muslim oath to the detainee.*

*The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The allegations appear in italics, below.*

*a. The detainee is associated with Al Qaida and the Taliban.*

Detainee: I heard of Al Qaida when I came to this camp. I was never with the Taliban.

*a.1. The detainee worked for Samoud Khan as a bodyguard and cook in his Mousauwal Compound in Zormat, Afghanistan in December 2001.*

Detainee: Yes, I was very poor and I worked as a cook to support my family. I was paid three to four thousand per month.

*a.2. A senior Taliban commander, and Al Qaida supporter, in Gardez frequently visited Samoud at the Mousauwal Compound.*

Detainee: I have no such information because I have not worked with him very long. Ask Samoud. He's in Bagram.

*a.3. Samoud Khan has claimed to be on a jihad against the United States and instructed his men they must do the same.*

Detainee: No. It's impossible to fight the Americans with just Kalashnikovs. Samoud had lots of personal enemies and was fighting against them.

*b. The detainee engaged in hostilities against the United States or its coalition partners.*

Detainee: I never fought against the Americans. I was a poor person working as a cook and I don't know anything.

Personal Representative: In addition to that, the detainee made statements to me earlier. Can I remind him of those?

Tribunal President: Yes

*Personal Representative: the detainee also said people worked for Americans, in fact the detainee worked for a general his name it's just in the detainee's files. The detainee worked for the general but does not know how long.*

Detainee: There was an American there. The head of the campaign, I was working for him.

Tribunal President: Let me just clarify, those are statements Habib made to you during an interview.

Personal Representative: Correct

Detainee: Yes

*b.1. The detainee admitted to being on a jihad.*

Detainee: No, I didn't do it.

*b.2. Samoud Khan, with the assistance of others, was responsible for rocket attacks against United States forces from firing positions on Laywan Mountain.*

Detainee: Yes, I made the statement, but I am not sure if those people were Samoud's enemies or if they were Americans.

*b.3. The detainee was instructed to fight to the death when American forces raided the Mousauwal Compound on 11 December 2002, but surrendered instead.*

Detainee: No, I didn't want to fight with Americans. Totally I surrendered I never fought.

*b.4. Just prior to the U.S. forces raid on the Mousauwal compound, the detainee instructed his compatriots to all provide the same false story if captured.*

Detainee: I have never lied. If I have lied, what kind of proof do you have? Show me proof that I have lied.

Tribunal President: Habib would you like to add anything else to the allegations or your responses to the allegations?

Detainee: I don't have anything else to say. My commander is detained. You should refer any questions to him.

Tribunal President: Habib, this is your opportunity to speak. We don't have the commander here in front of us now. We may not have the opportunity to talk to the commander. This is your opportunity to tell your story.

Detainee: I told you I was a poor person, and that I was working over there to support my mom and my dad to support them financially. I was just working for money. I never worked for Al Qaida or the Taliban.

*The Personal Representative and the Recorder had no questions.*

Tribunal Members' questions

Q. When you worked for the American General, what did you do?

A. One of our village's representatives, named Abdul, was working for Americans and I was working for him.

Q. Doing what?

A. I was a guarding and also cooking.

Q. What village was that?

A. Zormat

Q. I understand you said you are not Taliban or Al Qaida, but is Samoud Khan associated?

A. Samoud – I don't know about him being with Al Qaida, but he was against the Taliban. He had killed a Taliban and ran to Pakistan to hide.

Q. Why do you think the U.S. attacked the compound at Mousauwal?

A. I don't know; maybe someone spied on us.

Q. When the rocket attacks took place, where were you? What were you doing?  
Cooking?

A. I wasn't with him at that time. I hadn't been with him for a long time, like 2 months or so.

Q. So you stopped working for him before the attacks?

A. No, I wasn't with him.

Q. So you joined him after the rocket attacks?

A. After the fight, I started working with him.

Q. How did you learn about the attacks?

A. He himself had told me, and also people from the village.

Q. So did he tell you they were attacks on U.S. forces?

A. Who?

Q. Samoud Khan?

A. Samoud Khan had told me so, and also the people of the village. They said it was on Gardez people.

Q. Initially you were told it was on U.S. forces?

A. Yes.

Q. How long did you work for Samoud Khan?

A. Two months, or so maybe a little less.

Q. Were you given instructions to fight to the death?

A. By whom?

Q. The allegation reads that you were instructed to fight to the death when American forces raided the Mousauwal compound on 11 December.

A. No. Why would I fight because Americans came in to search, so there was no reason to fight.

Q. Were you given instructions to fight to the death?

A. If I wanted to fight, no, the Americans were standing in front of us, we would have fought. But we didn't fight.

Q. I am not asking if you fought or surrendered. I am asking you if you were given instructions to fight to the death?

A. By who?

Q. Samoud Khan.

A. He had told me to tell the Americans we are people of Hafiz Zula (phonetic). I work for him. First, when we were in Gardez, they had taken all our clothes off. I was naked with 8 other people with us when I made that statement at that time. Americans were beating us really hard, and they had dogs behind us and they said if we didn't say this, they would release the dogs. After that, an American grabbed me by the throat and said, "Has this happened to you?" and then I said "yes," and that is why I made the statement "Samoud told me to fight."

Tribunal President's questions.

Q. Where were you born?

A. What do you mean?

Q. Where were you born? Where were you raised?

A. I was raised in Pakistan.

Q. Why did you go to Afghanistan?

A. That is my place. That is my homeland. My mom and dad are there. My house is there.

Q. Were you born in Afghanistan or Pakistan?

A. I am not sure. Maybe Pakistan.

Q. Then your family moved back to Afghanistan?

A. Yes.

Q. Where was your family living?

A. Zormat.

Q. Where was the compound located?

A. Zormat.

Q. What type of compound was Mousauwal?

A. It was a region with a lot of houses over there.

Q. Help me to understand. Is Samoud Khan the ruler or the governor of this compound?

A. He was the commander.

Q. So there were military troops at this compound?

A. Yes. They were our friends.

Q. It was a training camp?

A. What do you mean?

Q. Military training?

A. There were just some Kalashnikovs there.

Q. So was it a supply compound?

A. It was a house.

Q. Did they store weapons in the house?

A. Rockets.

Q. Did you also work as a bodyguard?

A. I was a cook.

Q. Did you also have to carry a weapon as a cook?

A. Yes, totally. I had a Kalashnikov.

Q. You were protecting yourself and the compound from who?

A. I am telling you, Samoud had personal enemies in Zormat. That caused us to fear for our own lives, so we carried the Kalashnikovs.

Q. Did you have to receive any training to use the AK-47?

A. I don't even know how to use the Kalashnikov properly. I used it at weddings and during the Eid festival. I just shot the Kalashnikov up in the air.

Q. My question is, did you have to receive any training? Is that yes or no?

A. No, I don't know how to use the Kalashnikov properly. If I have a target right there, and this point, I don't know how to fire at that target properly.

Q. Have you ever worked with any Al Qaida or Taliban soldiers or fighters?

A. No.

*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, U.S. Army  
Tribunal President



UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (14 October 2004)

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

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 indicating that the detainee engaged in hostilities against the United States or its coalition partners.
  - a. The detainee is associated with al Qaida and the Taliban:
    1. The detainee worked for Samoud Khan as a bodyguard and cook in his Mousauwal Compound in Zormat, Afghanistan in December 2001.
    2. A senior Taliban commander, and al Qaida supporter, in Gardez frequently visited Samoud at the Mousauwal Compound.
    3. Samoud Khan has claimed to be on a jihad against the United States and instructed his men they must do the same.
  - b. The detainee engaged in hostilities against the United States or its coalition partners:
    1. Detainee admitted to being on a jihad.
    2. Samoud Khan, with the assistance of others, was responsible for rocket attacks against United States forces from firing positions on Laywan Mountain.
    3. The detainee was instructed to fight to the death when American forces raided the Mousauwal Compound on 11 December 2002, but surrendered instead.
    4. Just prior to the US forces raid on the Mousauwal compound, the detainee instructed his compatriots to all provide the same false story if 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.

UNCLASSIFIED

4254  
Exhibit B-1



Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 10/12/2004

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

[REDACTED]  
[REDACTED]  
[REDACTED] Intelligence Analyst

There is no Exhibit R-3.

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 8 November 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #907.

I have no comments.

My comments are attached.



Name

8 Nov 04  
Date



Signature

ISN #907  
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

KHI ALI GUL, )  
 )  
 )  
 Petitioner )  
 )  
 v. ) Civil Action No. 05-00877 (JR)  
 )  
 GEORGE W. BUSH, *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 (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 Khi Ali Gul that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or have been redacted. An OARDEC staff member redacted information that would personally identify U.S. Government personnel and other people in order to protect the personal security of those individuals. This individual also redacted the names of internee serial numbers because certain combinations of internee serial numbers with other information relates to sensitive internal and

intelligence operations that is not suitable for public release.

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

Dated: 31 May 2005

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



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 961

26 FEB 2005

**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 B. Wiegmann)  
DoS (Ambassador Prosper)  
DASD-DA  
JCS (J5)  
SOUTHCOM (CoS)  
COMJTFGTMO  
OARDEC (Fwd)  
CITF Ft Belvoir

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4261

7 Feb 05

## MEMORANDUM

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

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 #12 of 29 September 2004  
(2) Record of Tribunal Proceedings  
(3) Email of 7 February 2005

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. *See* exhibit D-a. The detainee also provided a sworn oral statement to the Tribunal in question and answer format. *See* enclosure (3) The Tribunal considered the Detainee's statement in its deliberations.

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

c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-10 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.

d. The detainee requested that 3 witnesses and documentary evidence be produced:

i. The Tribunal president determined that the witnesses' testimony was relevant, and sent a request for assistance to the U.S. State Department to locate the witnesses with the help of the Afghan government. As of the date of the hearing, there had been no response from the Afghan government. The Tribunal President subsequently determined that the witnesses were not reasonably available. In my opinion, the Tribunal acted properly in determining that the witnesses were not available.

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

ii. The detainee also requested a list of Taliban members from an Afghan government source be produced. The Tribunal President determined that the evidence request was relevant, and sent a request for assistance to the U.S. State Department to locate the document with the help of the Afghan government. As of the date of the hearing, there had been no response from the Afghan government. The Tribunal President determined that the document was not reasonably available. In my opinion, the Tribunal acted properly in its determination that the document was not reasonably available.

iii. It is noted that the detainee, through his Personal Representative, submitted potential questions to the witnesses that were deemed relevant but not reasonably available. I personally requested a copy of exhibit D-b from a custodian of the detainee files in Guantanamo Bay, Cuba. The custodian's response is included as enclosure (3). In my opinion, the document should have been included; however, the Tribunal could properly determine that the detainee be classified as an enemy combatant without the questions being submitted.

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 did not 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.

*Peter C. Bradford*

PETER C. BRADFORD  
LT, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

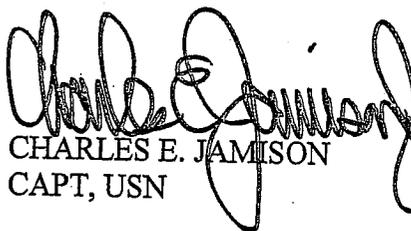
28 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander 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 [REDACTED]

  
CHARLES E. JAMISON  
CAPT, USN

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #12 \_\_\_\_\_

ISN #: \_\_\_\_\_ [REDACTED] \_\_\_\_\_

**1. Introduction**

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

**2. Synopsis of Proceedings**

The unclassified evidence presented to the Tribunal by the Recorder alleged that the Detainee is associated with forces engaged in hostilities against the United States and its coalition partners, in that he is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, rockets and various small arms. Additionally, he was the Commander in a Jihadi Battalion, a member of an organization known to have committed a terrorist act, and he participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno on 1 December 2002.

The Detainee chose to participate in the tribunal process and expressed happiness about the process and activity around the tribunal. He understood the process and had no questions concerning the process and made his statements under Moslem oath. The Detainee requested two off-island witnesses and no additional documentation. The Detainee basically denied all the allegations against him; but it should be noted that he usually provided additional information that would detract from the original allegation, or in the case of the questions and answers portion of the tribunal, avoid a direct answer.

### 3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-16.
- b. Testimony of the following Tribunal approved witnesses: None.
- c. Sworn statement of the Detainee.

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

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

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED] (brother)	Not Reasonably Available	No
[REDACTED] (brother)	Not Reasonably Available	No
[REDACTED] (father)	Not Reasonably Available	No

\*The Detainee made a request for three out of camp witnesses. The Detainee desired his father and brothers to testify to what he was doing prior to his capture and that he was not a Jihadi Battalion commander. The Tribunal President declared these witnesses relevant on 25 October 2004. On 27 October 2004, a Request for Assistance was subsequently sent to the U.S. Department of State, which forwarded the request to the Embassy of Afghanistan. Despite this request and a follow-up request on 9 November 2004, no response was received. After 30 days of no response having been received, the Tribunal President therefore ruled that the witnesses were not reasonably available and the Tribunal proceeded on 27 November 2004.

- b. The Detainee requested the following additional evidence be produced:

<u>Evidence</u>	<u>President's Decision</u>	<u>Produced?</u>
List of Taliban Members From Khowst Intelligence Service	Not Reasonably Available	*No

\*The Detainee requested the above-mentioned list so the absence of his name would show that he was not a member of the Taliban. The President declared this request relevant on 25 October 2004. On 27 October 2004, a Request for Assistance was subsequently sent to the U.S. Department of State, which forwarded the request to the Embassy of Afghanistan. Despite this request and a follow up request on 9 November 2004, no response was received. After 30 days of no response having been received.

The Tribunal President therefore ruled that the witnesses were not reasonably available and the Tribunal proceeded on 27 November 2004.

## **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 is the FBI Request for Redaction. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially, the only unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as Enclosure (3) to the CSRT Decision Report, Enclosure (3).

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, Taliban and other associated forces 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,

[REDACTED]

Colonel, U.S. Marine Corps  
Tribunal President

Summarized Sworn Detainee Statement

*The Tribunal President read the Hearing Instructions to the Detainee, and asked if he understood the process.*

Detainee: What process?

Tribunal President: The Tribunal process.

Detainee: Yes; if someone is not an enemy combatant, they will be released. If he is an enemy combatant, they will keep them.

Tribunal President: That's correct. Do you have any questions concerning the Tribunal process?

Detainee: What kind of questions?

Tribunal President: Questions about your testimony or what will happen here today?

Detainee: I don't know what kind of questions to ask.

Tribunal President: Just in case you have a question or are unsure of the process of the unclassified evidence being presented, there is ample opportunity for you to make a statement. The Tribunal has come here today with an open mind. We have not seen any evidence or know any information about you other than your name and Internment Serial Number.

Detainee: Are you finished?

Tribunal President: Just about; we will give you an opportunity to make a statement after I take some evidence from the Recorder. Do you have any other questions? Does that give you a good idea about the process?

Detainee: We are so happy about the Tribunal. We heard that some of them or most of them are being released; we have a difficult life, a real hardship here.

Tribunal President: That's what we understand. We, too, are happy to be here, and are focusing on your situation, whether or not you have been properly classified as an enemy combatant. If you have no other questions, we'll go ahead and continue at this time.

Detainee: Yes, please.

*The Unclassified Summary of Evidence was read in full to the Tribunal by the Recorder. The Detainee interrupted the proceedings immediately after all the evidence was read to ask a question.*

Detainee: What do you want to do to me? What is the time?

Tribunal President: I don't understand.

Detainee: I thought you were telling me.

Tribunal President: The Detainee thought I was talking to him, but I was talking to the Recorder.

***The Tribunal President then addressed the Detainee Election Form and the Detainee's request for Witnesses.***

Tribunal President: This indicates that the Detainee has chosen to participate in the Tribunal, which is evident by your (Detainee's) presence here today. The Detainee had requested two witnesses, the Detainee's father and brother. The Personal Representative had sent this request to me to make a witness determination. I felt these witnesses would be relevant to the Detainee's situation, and I recommended that we attempt to produce these witnesses, or statements from the witnesses for the Detainee's Tribunal. That attempt was made in the form of contacting the U.S. State Department, which in turn contacted the embassy of that country, which is Afghanistan. The names of the two witnesses were identified to that country's embassy and requested they be contacted. This request was sent on 27 October 2004, and it also was conveyed a suspense date of 17 November 2004 to be used as a timeline to receive an answer. The second notice was sent on 9 November 2004, and as of this date, 27 November 2004, the State Department has yet to hear back from the embassy of Afghanistan. I made the determination that we would proceed with the Tribunal, and after this reasonable attempt and effort was made, although unsuccessful, I decided that we would proceed with the Tribunal, as these witnesses are determined not reasonably available. Therefore, any requests for witnesses or documentation for this Tribunal today are determined to be not reasonably available. Keep in mind this will not be held against you; this will not be a negative reflection on the Detainee as we make a determination whether he is properly classified as an enemy combatant. We will keep this matter open for a reasonable period of time; that is, if we receive back from Afghanistan this witness request, even if we close the proceedings today, with new evidence, we would be open to introducing or re-introducing any witness statements we might receive. You may now present any information you have to this Tribunal, and have the assistance of your Personal Representative in doing so. Do you still wish, or want to present information to this Tribunal?

Detainee: What can I do; should I talk?

Tribunal President: You can make your statement under oath if you like; at this time, we'll give you this opportunity.

Detainee: What kind of oath?

Tribunal President: We have the Muslim oath available for you to take if you would like.

Detainee: You will give me the oath?

Tribunal President: Yes.

*The Recorder then administered the Muslim oath to the Detainee.*

*The Tribunal President then directed the Personal Representative to read the Unclassified Summary of Evidence one at a time to allow the Detainee the opportunity to respond.*

Personal Representative: He [the Detainee] asked me to read each allegation, and then he will respond.

*3a. The Detainee is associated with forces engaged in hostilities against the United States and its coalition partners.*

Detainee: Before I begin my statement, can I say two or three words?

Tribunal President: Certainly.

Detainee: The Americans have my phone number. I will call my brother, and within 2-3 days, he can bring my whole tribe, and they can testify for me. America can go there and my brother will bring the whole tribe to testify and give evidence about me. I will not say one word more or less; I want to ask just one thing: that God bring the tribe to the Americans to talk about the allegations about me.

Tribunal President: All the opportunity to provide that information was given to you earlier, and the information we had, we went with. We will not make any effort more than what we already have for today's Tribunal.

Detainee: Two or three days will finish the whole thing.

Tribunal President: This has now been over a month that attempt was made to contact your father and brother. The Afghan embassy has given no response.

Detainee: That's not my family or my brother's fault. That is the fault of the Afghan government.

Tribunal President: As I said, we not hold it against you as we make our determination. We will be moving forward today with or without witnesses. We are proceeding today.

Detainee: In the future; it's okay.

Tribunal President: It's okay?

Detainee: Yes.

Tribunal President: May we continue, please?

Detainee: May I say one other word? About our oath in our region; it is a very important subject. If a judge is going to give the oath to someone, it is only if someone dies or kills someone else. If someone is willing to raise his hand for an oath, the whole thing is finished and the case is closed; he is forgiven.

Tribunal President: Here in the Tribunal process, when you take an oath, you are promising to tell the truth.

Detainee: Yes, sir. I am just asking if you give me the oath, if you will release me or not?

Tribunal President: Whether giving your statement under oath or not under oath, it will be accepted either way. That statement will be part of everything that we take into consideration as we make our determination of your enemy combatant status. If we determine that you should not be classified as an enemy combatant, you will be released to your home country as soon as arrangements can be made; but, if we determine that you are properly or confirmed as an enemy combatant, then you will be further detained but be eligible for an Administrative Review Board that will review your detained situation. Do you have any other questions?

Detainee: No. I'm just waiting for my representative.

*At this time, the Personal Representative resumed reading the Unclassified Summary of Evidence one point at a time.*

*3a.1. The Detainee is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, a BM 12, rockets, DSHKs, and various small arms.*

Detainee: Before I answer, I want to ask the representative who that is; what kind of relationship did I have with that person? Did I sell or collect weapons? Do I know that person?

Tribunal President: We don't know either; we were hoping you could provide that information.

Detainee: In the name of God, I have thought of this so many times. I don't know this person or have any relation to this person. I have no contact or relation, and if I did, I would say if I did or didn't.

ISN# [REDACTED]

Enclosure (3)

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*3a.2. The Detainee is a commander in a Jihadi Battalion.*

Detainee: You can't hide the sun in the sky with two fingers. If I were a commander in Afghanistan, the whole world would know. These commanders have different bases. Who was under my command? Where was this base? Show me one person, or one soldier, one militia; if I was in command, whom did I command?

Tribunal President: Because we haven't seen your file, we don't know that either. (Addressing the Personal Representative) Please continue.

*3a.3. The Detainee was a member of an organization known to have committed a terrorist act.*

Detainee: The terrorists killing people; are you talking about this thing?

Tribunal President: It could be; do you know of any other terrorist acts that don't kill people?

Detainee: Interrogators told me maybe you are a terrorist and you are killing people.

Tribunal President: Do you have any other comments about this item?

Detainee: I will answer. That's the law in Khost; if anyone kills in our village or area at anytime, especially if it's a little girl or boy; you cannot kill people, that's impossible. If you do this thing, or kill someone, that's it; you then can't live in this area, and must leave your home or country and go to the border or to Pakistan; your whole family may have to go to Pakistan because you can't live there any more. We have a pump to sell gas at a gas station, and also we have a yard. We can't leave our business or wealth, and don't want to run away from our city or homeland. If I kill anyone, they have the right to take me to court; even here under the law of the United States. They should come here to court and prove to me if I ever killed someone.

*3b. and 3b.1. The Detainee participated in military operations against the United States and its Coalition Partners. The Detainee participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno, 01 December 2002.*

Detainee: The day the Karzai government came to power, I was a part of it. I was a part of the government up until the day they arrested me. The first time the Americans arrived, I was the first and only one to stand up to protect them; I ran to help them. If I were going to kill them, I would've shot them down at that time, and killed all the Americans. You guys are intelligent and smart. When Americans were asleep in Tora Bora, I protected them. I could've killed them while they were sleeping, but I was helping them. I don't need to make plans with other people, because I was a part of the government. I could go anywhere I wanted, when I wanted. I had many golden

ISN#

Enclosure (3)

Page 5 of 12

opportunities to kill Americans, anywhere, anytime, but I would not do that. Should I explain more, how they captured me because I had some problems with some people?

Tribunal President: You are welcomed to continue as long as you like. We will have some questions for you, though, when you are finished with your statement.

Detainee: When I travel from my village to the center of Khost village, I had so many things in my mind. I would like to go to the president of the secret police, and also to find out the gas prices for my gas station. When I traveled in the middle of the day, they arrested me, and they said there's an American campaign going on. The people are all together at a checkpoint. At this checkpoint there were some people I had a dispute with. I think these people at the checkpoint told the American soldiers a lie, and then after they came, they arrested me. There's a name of a person named [REDACTED]; he was appointed as a secret officer of the Khost area. He asked me to go to Kabul and ask the Karzai government's permission to open a secret office in Khost; secret police for secret intelligence. I told him two or three things. One, that I cannot read or write; second, my people are at war in the Middle East, and my brother takes care of the gas station, and there's no one else to take care of the family and kids. I told him I have to be here. The guy is still keeping me, and left me no choice, so I went with him. Two things come to my mind; this is our home and our time to do something for our country, and the Americans will be good for our future, our family and our kids. Finally he got some money from the American government, about \$150 per month. He promised us this, but he kept the money. We kept asking and asking, but he did not give it to us. This is why we have a dispute with him. Also, in this secret office, there was another person that was a former Communist. His name is [REDACTED] (ph); we fought with him, too. Our dispute got bigger, and they wrote a letter to the Kabul government, and they let the Communists go; there was still a dispute between them and us. Another person named [REDACTED] (ph), he was a commander of Mr. [REDACTED] (ph) force. Another was [REDACTED] (ph); he was a big commander or two star general of the government of Mr. [REDACTED] Mr. [REDACTED] (ph) went to [REDACTED] (ph) and asked for some new bases somewhere else, and open in a new area, and we joined [REDACTED] in the new base. At that time, the government and two other government officials were angry about opening the new base. They went to the Americans because they did not like this. Americans told us that President Karzai said to go to the new base, to go there and close the base. This is another dispute to know because a lot of people were upset about this thing. One group is former Communist government people and the other group is the majority, and they are very different. One thing about the Communists is that they can read and write like the Americans. That's the only reason, because we fought them for so long, and their reading and writing was good. One other thing; in Afghanistan if someone has a dispute, and one has money and the other does not, then the one with money can get them into trouble with the Americans, even if that person is working and helping the Americans. They find some excuse; I will give you so much money if you make something up against him, and make a problem for him. There are a lot of disputes between families and tribes and political parties in Afghanistan now. If someone does something good for you, he does something good for himself, too. Please understand these disputes. It is my only wish or hope to sit

ISN# [REDACTED]

Enclosure (3)

Page 6 of 12

with people someday that would listen to my story. My heart is now empty and happy to be in front of you. Please, if you have questions for me, ask.

Tribunal President: We do have some questions, but does this conclude your statement at this time?

Detainee: For now, yes, but in future, if I have other statements, I will let you know.

**Tribunal Members' Questions of Detainee**

Q: Good afternoon. We appreciate the opportunity to speak to you today.

A: I'm so happy and glad I am here.

Q: I was trying very hard to follow your story; it seems there's a lot of fighting going on in Afghanistan all the time.

A: We are sick and tired of war. When a jihad comes to an end, the leaders and commanders try to start another war between their own people for personal reasons. God only knows if jihad is the right or wrong thing. We are so tired, and we need no more war. We can't wait for the peace, and we pray to God for peace in Afghanistan.

Q: Of the names that you gave, I took down four of them that I heard. I am wondering if any one of them that I heard; I was wondering whether any of them; [REDACTED] [REDACTED] are members of any group against the Americans?

A: Mr. [REDACTED] is a commander of Mr. [REDACTED]. He gets military business from [REDACTED], a commander under control of President [REDACTED]. [REDACTED] is a secret police chief under Mr. [REDACTED] presidency. [REDACTED] is a former secret police chief of the former Communist government with Najibullah. I didn't directly fight for or use bad words about [REDACTED], but he had another person working for him like as a manager or supervisor, and I fight with him or use bad words with him.

Q: These people perhaps on the outside say they are with Karzai and the Americans; is there a chance that secretly they are against the Americans?

A: I don't think they are against the Americans or the new government; there was a dispute against me.

Q: Are any of these people, do you know, part of any groups like HiG or any groups against the Americans?

A: No, they are commanders of the military, and the other is a governor for Mr. [REDACTED]. One is secret police. Under former [REDACTED].

Q: Of the people that you mentioned, who is the most likely person to have made accusations against you?

A: I just named that person in general because that was the reason we opened a new base. A lot of people against this place, and told the wrong things to Americans, and they came to the base and made us close this base.

Q: Earlier you mentioned that [REDACTED] approached you to open a secret police office. Why would he ask you to do this; do you have a background in this type of work?

A: I don't have any experience. The only reason he came to me is because I know some people that are my cousins. When he was looking for help, I was the only one to get eight people, including me, to help him open this office in Khost. There was a lot of war going on there, and no security. I had two or three cousins that helped him. Finally, our help to them was to get each of us \$150 per month as a salary from the government to work here. Instead, he put the money in his pocket, and that was our problem here. That was when we started the dispute.

Q: Why do you think he came to originally; did you have a prior relationship with you or have a reason to trust you from your past dealings?

A: We knew each other.

Q: A long time?

A: He has a nephew named [REDACTED] who was a commander; I knew [REDACTED] Mr. [REDACTED] was a commander under [REDACTED]

Q: Do you think [REDACTED] may have stockpiled all these weapons that we heard about earlier?

A: I really don't know.

Q: One of the things I noticed here is that it says you are a battalion commander; in the American armed forces, that is a position of great prestige and respect.

A: Like I told you before, you cannot cover the sun with two fingers; everybody knows them. He would have a lot of militia and soldiers and everybody knows him. He would have a lot of area under his control. For example, [REDACTED] is a commander; every single person, boy and girl knows him. If you are a commander, everybody knows you. A lot of people would work for him. If one person says I was their commander, that would be different.

Q: Did you help fight against the Russians when they were in Afghanistan?

A: I didn't fight directly with Russians at that time. Inside the government, I fought against the Communists that were in Afghanistan.

Q: How long did you do that; do you remember?

A: I don't remember how many years, because we went somewhere and fought under the last President. When the holy war ended until the Communists fell, I dropped everything and came home.

Q: During the time that you were fighting Najibullah, did you have any position of responsibility or leadership?

A: No. I told this to the interrogators that I work for another commander; I was only a soldier or mujahidin. I had a dispute with this commander, so we moved to another commander. He slapped me, physically abused me and hit me so hard. This man was against the Taliban.

Q: When the Taliban was in charge of Afghanistan, did you fight with them or against them?

A: No, I didn't fight with them and didn't work with them. I am nobody, not a strong person. They took me one day to prison.

Q: The Taliban?

A: The reason was that when they called for the prayer, a policeman asked why I didn't go to prayer. I was in the gas station, so he took me to prison for missing the prayer.

Q: When you were not fighting or involved in all these disputes, was the primary means of supporting yourself running your gas business?

A: We didn't have the gas pump before; we just opened it up during Mr. [REDACTED] time.

Q: How did you support yourself when you didn't have the gas pump business?

A: We are six brothers; three working outside in the Arab world. One brother drives his car, and one is sick at home, and one to take care of family and kids and works on the farm.

Q: So the only way to feed your family was to work on the farm?

A: We are a big family, and need one other person to control and watch over the whole thing; in sickness and in health. I have one driving car for money and the others in the Arab world give us money. They need one other to take care of everything for the family.

Q: Thank you for all the information; you seen very cooperative and willing to help. I noticed in the camp, that there are three colors to the uniforms (orange, tan and white). What do you do to still be in an orange uniform as opposed to tan or white?

A: I don't know. I heard only people having problems with MP's wear these colors, or go to a different camp. I don't know why they keep me there.

*At this time, the Tribunal Member thanked the Detainee for his testimony, and the Detainee made a statement.*

Detainee: I am so sick. I have been sick for two years and no one has taken care of it.

Tribunal President: You made mention of that in the Detainee Election Form, and the Personal Representative has identified that.

Detainee: I thank him for helping me because my teeth were in pain, and the doctor took my tooth out. I asked him for a book and he gave me a book. I pray for him every day.

Tribunal President: You are absolutely correct; you are represented by one of our best Personal Representatives.

Detainee: Yes.

Tribunal President: I just have one last question for you. Have you ever been a part of or a supporter of the Taliban?

Detainee: Again, you can't hide the sun with two fingers. In the whole Khost area there was only 5 or 6 Taliban. In whole camp, there were more than 30 people, and if you asked them, they would say no more than 5 or 6.

*The Tribunal President then thanked the Detainee for his testimony and asked the Tribunal if there were any further questions. A Tribunal Member then posed one final question.*

Tribunal Member: Of those 5 people in Khost that were a part of the Taliban, hopefully you were not one of them.

Detainee: Everybody knows, the whole world knows, one cannot hide if they are Taliban. If I stayed one night with the Taliban, you could keep me here for 20 years. I did not spend one day with the Taliban.

Tribunal Member: Thank you.

Detainee: I ask you for help. I never had a problem or have never been angry at America. I am angry with my own country's people. I hope you find who made these allegations against me, and destroyed my whole life. I hope in the future, you will give the just punishment for them because they hurt me a lot. I have no problems, and I am not mad at America.

Tribunal President: Do you have any other information to present to this Tribunal today?

Detainee: Which, or what kind of information?

Tribunal President: Anything else that you feel is important as we make our determination.

Detainee: Like before, when I talked to my dear representative, I have thought many times and have many thoughts about the person that collected the ammunition. If I knew who this was I would tell you the name willingly or gladly, and I would tell you if I was with them or not with them.

*At this time, the Personal Representative submitted into evidence Exhibit D-b; the Exhibit contained the questions the Detainee would've asked the Witnesses had they been there, to assess the thought processes of the Detainee.*

Tribunal President: As with all the evidence that we've received today, we'll take all of it into serious consideration.

Detainee: Could I ask one more question?

Tribunal President: Certainly.

Detainee: I was working as a part of the government. If you find me guilty, you should keep me here. If I am not an enemy combatant, I ask to be released to my home country, and receive my salary for the last two years.

Tribunal President: If we determine that you were not properly classified as an enemy combatant, all I can tell you is that you'll be released to your home country as soon as arrangements can be made. Anything other than that, you'll have to pursue by other means at that time.

Detainee: They will not give me anything because America took [detained] me, not us. They say America owes me. They want it from you.

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

ISN# [REDACTED]

Enclosure (3)

Page 11 of 12

*The Tribunal President then began to explain the remainder of the Tribunal process to the Detainee, but was interrupted when the Detainee stated the following.*

Detainee: When will I see you [the Tribunal] again?

Tribunal President: We [the Tribunal] won't see you again. In about 30-60 days, someone will see you and identify the Tribunal results for you.

Detainee: What kind of news will you bring to me?

Tribunal President: That has yet to be determined; good day.

*The Tribunal President then 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.

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

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**DETAINEE ELECTION FORM**

Date: 19 Oct 2004

Start Time: 1050

End Time: 1220

ISN#: [REDACTED]

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

Translator Required? YES Language? PASHTU AFG

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:**

I briefed detainee [REDACTED] on the CSRT system and he was eager to participate. He listened well and asked questions. The detainee wanted to call a witness and asked that we contact his father and brothers to be a witness for him. No telephone number was known. I will submit a witness request sheet to the Tribunal President. The detainees father and brother will testify about his pre-capture activities. [REDACTED] also suggested that the US get a list of known Taliban members from the intelligence service in Khoust and check to see that his name is not on it. He is confident that it is not. (note: as of 27 Nov 04, the request to the US State Department has come back negative). His first comment during the interview was that he wasn't feeling well and that he did not want to go to a tribunal until his health and dental problems were looked at. I discussed this issue with a JDOG CAPT and he said that there is limited dental care (1 dentist for all of JTF and Camp Delta) but there is weekly access to a medic for the detainees. I suggested to the detainee that he see the medic in his cell block.

Personal Representative: [REDACTED]

**UNCLASSIFIED** [REDACTED]

Exhibit D **4282**

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (01 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – GUL, Khi Ali.

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 forces engaged in hostilities against the United States and its Coalition Partners.
  - a. The detainee is associated with forces engaged in hostilities against the United States and its coalition partners:
    1. The detainee is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, a BM 12, rockets, DSHKS, and various small arms.
    2. The detainee is a Commander in a Jihadi Battalion.
    3. The detainee was a member of an organization known to have committed a terrorist act.
  - b. The detainee participated in military operations against the United States and its Coalition Partners.
    1. The detainee participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno, 01 December 2002.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit

*page lost*  
R14283

# Memorandum



To : Department of Defense  
Office of Administrative Review  
for Detained Enemy Combatants  
Capt. Juno Jamison, OIC, CSRT  
Date 10/22/2004

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 03/24/2003

<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, 10/22/2004

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

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 25 January 2005 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

[REDACTED] I have no comments.

My comments are attached.

[REDACTED], Major, USAF

Name

25 Jan 2005

Date

[REDACTED]  
Signature

ISN # [REDACTED]  
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HASSAN ADEL HUSSEIN,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-1009 (JDB)

**DECLARATION OF TERESA A. McPALMER**

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

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

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

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

Dated: 15 February 2006

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



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 1075

18 MAR 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN #940

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 #940 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~~

4 Feb 05

FIRST ENDORSEMENT on LT P. C. Bradford ltr of 25 Jan 05

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 940

1. Forwarded, recommending approval of the Combatant Status Review Tribunal decision.
2. The subject tribunal determined by a vote of 2-to-1 that the detainee was properly classified as an enemy combatant. In an articulate and thoughtful dissent, one of the tribunal members opined that the Unclassified Summary of the Evidence was deficient because it failed to present a *prima facie* case that the detainee is an enemy combatant.<sup>1</sup> The Unclassified Summary of the Evidence is not intended to be a charging document that alleges each and every fact necessary to establish that an accused has committed a crime. Rather, it is designed to provide the detainee with fair notice in an unclassified format of the factual basis for their detention. The document must provide sufficient information to the detainee to allow him a meaningful opportunity to contest the factual basis for his detention. The CSRTs are not criminal trials, but rather administrative fact-finding hearings created and designed solely to answer one question – is the detainee properly classified as an “enemy combatant” as defined in the CSRT establishment and implementing orders. To compare the Unclassified Summary of the Evidence to a military charge sheet or civilian charging document is to hold it to a standard that it was not designed or intended to satisfy. I concur with LT Bradford that the Unclassified Summary of the Evidence is legally sufficient in this case.
3. The dissenting tribunal member also opined that there was insufficient evidence to prove that the detainee was part of or supporting al Qaeda forces or associated forces engaged in hostilities against the U.S. or its coalition partners. In analyzing whether there was sufficient evidence to support a Tribunal’s decision I have customarily used the test of whether there was sufficient evidence for a reasonable finder of fact to have found the detainee was an enemy combatant by a preponderance of the evidence. Given the low evidentiary hurdle posed by a preponderance of the evidence standard<sup>2</sup> and the rebuttable presumption of genuineness and accuracy that attaches to the Government Evidence, I believe that the test is satisfied in this case. That is to say that reasonable finders of fact could determine that this detainee meets the definition of “enemy combatant” based on the evidence presented.



J. R. CRISFIELD JR.  
CDR, JAGC, USN

<sup>1</sup> “*Prima facie*” is Latin for “at first sight.” Its legal meaning refers to evidence that, standing alone and un-rebutted, is legally sufficient to establish an offense, defense, or cause of action.

<sup>2</sup> The preponderance of the evidence standard may be simply stated as “more likely than not.”

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25 Jan 05

MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 940

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 #19 of 4 November 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. *See* exhibit D-a. The detainee also provided sworn oral and written statements to the Tribunal. *See* enclosure (3) and exhibit D-b. The Tribunal considered both the sworn oral and written statements in its deliberations.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee did not request that any witnesses or evidence be produced.
- e. The Tribunal's decision that detainee #940 is properly classified as an enemy combatant was by a vote of 2-1. The dissenting tribunal member's report is attached to the Tribunal Decision Report as enclosures 3(a) and 3(b). In my opinion, the Tribunal could properly determine, based on the evidence presented, that the detainee should be classified an enemy combatant. I do not concur with the Dissenting Member's argument.

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

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 940

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

*Peter C. Bradford*  
PETER C. BRADFORD  
LT, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

4 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #19

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, U.S. Navy; Member

[REDACTED] Major, JAGC, U.S. Army Reserve; Member  
(JAG)

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

27 December 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 940

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

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

FOR   
CHARLES E. JAMISON  
CAPT, USN

**(U) Combatant Status Review Tribunal Decision Report Cover Sheet**

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2), (3) and (5).

(U) TRIBUNAL PANEL:   #19  

(U) ISN#:   940  

Ref: (a) Convening Order for Tribunal #19 of 4 November 2004 (U)  
(b) CSRT Implementation Directive of 29 July 2004 (U)  
(c) DEPSECDEF Memo of 7 July 2004 (U)

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

(U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

(U) The majority of the Tribunal has determined that Detainee #940 is properly designated as an enemy combatant as defined in reference (c).

(U) In particular, the majority of the Tribunal finds that this detainee is associated with al Qaida, as more fully discussed in the enclosures.

(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), (2) and (3).



Colonel, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION****(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL:          #19  
ISN #:          940**1. Introduction**

As the Combatant Status Review Tribunal Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is associated 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. Any classified evidence considered by the Tribunal is discussed in Enclosure (2) and (3) to the Combatant Status Review Tribunal Decision Report.

**2. Synopsis of Proceedings**

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with al Qaida. The Detainee was employed by the World Assembly of Muslim Youth (WAMY) in Afghanistan and Pakistan for approximately one and one half years until the time of his capture 18 July 2002. WAMY supports terrorist ideals and causes. During the period 1986 through 1999, the Detainee was employed by Lajanat Dawa Islamiya (LDI) in Afghanistan and Pakistan. LDI has been one of the most active Islamic non-governmental organizations to give logistical and financial support to mujahadin operating in the Afghanistan and Pakistan Area. During the course of his duties with LDI, the Detainee came in contact with persons who hold positions of responsibility in al Qaida. The Detainee chose to participate in the Tribunal process. He called no witnesses and did not request any documents to be produced. The Detainee made an oral, sworn statement and provided a written statement. The Detainee, in his oral statement, denied any association with al Qaida and stated that the World Assembly of Muslim Youth (WAMY) and Lajanat Dawa Islamiya (LDI) were not affiliated with al Qaida.

**3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and D-b, R-1 through R-16.
- b. Testimony of the following persons: none.
- c. Sworn 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 rulings on these matters were required.

#### **5. Discussion of Unclassified Evidence**

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

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

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as CSRT Decision Report Enclosure (4). In sum, the Detainee stated he had no association with al Qaida and that they were in conflict with the teachings of Islam. The Detainee stated that he worked in LDI as an administrator, teacher, and orphanage administrator from 1986 to 1999. The Detainee indicated that LDI downsized after the Gulf War since the LDI originated in Kuwait. He went to work for WAMY as administrator in a hospital, although he stated that he had no training for this position. After September 11, 2001, he returned to its main office in Pakistan where his main job was to distribute aid supplies to refugee camps. In June of 2002, he traveled to Sudan with his family where he left them so that his daughters could continue their education. The Detainee returned to Pakistan and was going to go back to Afghanistan to resume his duties as administrator of the hospital. He was arrested at 0130 at night in his house by Pakistani police and a "tall person" that he believed to be an American. He was detained in Pakistan for six months and ten days and then moved to Bagram and then to Cuba.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) and (3) to the Combatant Status Review Tribunal Decision Report.

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

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

**7. Conclusions of the Tribunal**

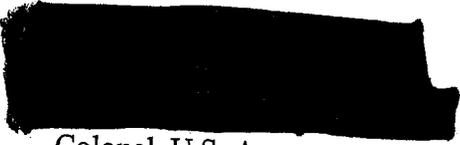
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed appropriate.
- b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.
- c. The majority of the Tribunal decided that the Detainee is properly classified as an enemy combatant and is associated with al Qaida.

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

See the attached report as Enclosure (3) to the Combatant Status Review Tribunal Decision Report.

Respectfully submitted,

  
Colonel, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR  
DISSENTING DECISION**

**(Enclosure (3)(a) to Combatant Status Review Tribunal Decision Report)**

TRIBUNAL PANEL:           #19            
ISN #:           940          

**1. Introduction**

As the Combatant Status Review Tribunal Decision Report indicates, the Author (Tribunal Minority) has determined that this Detainee is not properly classified as an enemy combatant. In reaching its conclusions, the Author considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Author. Any classified evidence considered by the Tribunal is discussed in Enclosure (3)(b) to the Combatant Status Review Tribunal Decision Report.

**2. Synopsis of Proceedings**

The author concurs with the "Synopsis of Proceedings", as described in Enclosure (1).

**3. Evidence Considered by the Author**

The Tribunal considered the following evidence in reaching its conclusions: Same as Enclosure (1).

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

See Enclosure (1)

**5. Discussion of Unclassified Evidence**

The Author of this report determined that the Detainee has been improperly classified as an enemy combatant. The Author further finds that the Unclassified Summary (Exhibit R-1) fails to even state a prima facie case that the Detainee is an enemy combatant.

a. The issue is whether the Detainee has been properly classified as an Enemy Combatant. In order to address this issue, the definition of enemy combatant must be examined. An enemy combatant is "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." In other words, for a person to be properly classified as an enemy combatant he must be one of the following: 1) part of or supporting the Taliban; 2) part of or supporting al Qaida; or, 3) part of or supporting associated forces that are engaged in hostilities against the U.S. or its coalition partners.

b. The Unclassified Summary (Exhibit R1) alleges that the Detainee is an enemy combatant based upon six specific allegations. First, the Detainee is accused of being "associated with al Qaida". The Detainee has denied this allegation. However, even if true, this allegation is insufficient to show that the Detainee should be classified as an enemy combatant. As indicated in paragraph 5(a), a mere association with al Qaida does not qualify as a basis for enemy combatant status. With respect to al Qaida, a person must be "part of or supporting...al Qaida forces". Therefore, this alleged association is not persuasive in that it does not even qualify the Detainee as an enemy combatant.

c. Exhibit R1 further alleges that the Detainee was employed by World Assembly of Muslim Youth (WAMY) for approximately one and a half years until his capture on 18 July 2002. As the Detainee admitted to this allegation, this fact is not in dispute. Additionally, the Detainee allegedly worked for Lajanat Dawa Islamiya (LDI) from 1986 through 1999 in Afghanistan and Pakistan. As the Detainee also admitted to this allegation, this fact is not in dispute. Both WAMY and LDI allegedly support terrorist ideals and causes. LDI allegedly "has been one of the most active non-governmental organizations (NGO's) to give logistical and financial support to mujahadin operating in Afghanistan and Pakistan." The Detainee testified that he had no knowledge concerning these alleged terrorist connections of his former employers. The Detainee explained that he held both teaching positions and administrative positions with these NGO's. In fact, the Detainee was a hospital administrator near the end of his employment with WAMY. Even if one or both of these NGO's provided some support to "terrorist ideals and causes", this fact does not incriminate the Detainee. Absent any alleged evidence that the Detainee was involved in providing this support, he cannot be deemed an enemy combatant. These NGO's presumably have numerous employees and volunteer workers who have been working in legitimate humanitarian roles. The mere fact that some elements of these NGO's provide support to "terrorist ideals and causes" is insufficient to declare one of the employees an enemy combatant. To reach such a conclusion would provide for unconscionable results. Consequently, all physicians, nurses, and aid workers employed by alleged terrorist connected NGO's would also be declared enemy combatants.

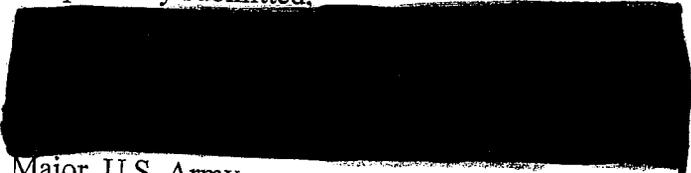
d. Even if these NGO's provided some support to these "terrorist ideals and causes", this fact would not qualify them as being "associated forces that are engaged in hostilities against the U.S. or its coalition partners." Otherwise, every NGO that has some members who provided some support to forces engaged in hostilities against the U.S. or its coalition partners would qualify as "associated forces". Here again, the ramifications of such logic would result in both unforeseen and unconscionable results. Indeed, an individual can be deemed an enemy combatant because of his direct support of "hostilities in aid of enemy armed forces." In fact, such direct support from an individual would qualify as a belligerent act. The definition of enemy combatant expressly clarifies this point. The absence of such clarifying language as to support from an organization is highly persuasive. The distinction between direct support from the individual and direct support from an individual's employer is critical and must not be overlooked.

e. The final allegation claims that: "During the course of his duties with LDI, the

Detainee came in contact with persons who held positions of responsibility in al Qaida." The Detainee denied knowing whether he had contact with such al Qaida members. Even if this allegation is true, it does not show that the Detainee has been properly classified as an enemy combatant. As discussed in paragraphs 5(a) and 5(b), a mere association with al Qaida does not qualify a person as an enemy combatant under the requisite definition. Otherwise, all the employees of LDI who "came in contact with al Qaida" would be deemed enemy combatants. If LDI did in fact have some terrorist connections and the Detainee was employed by this NGO for a 14-year period; then, it is not unreasonable that he may "came in contact" with al Qaida members. The fallacy of the logic that seeks to declare the Detainee an enemy combatant would provide support that a local merchant who "came in contact" with al Qaida members could be deemed an enemy combatant.

f. In essence, the Unclassified Summary (R1) amounts to saying that the Detainee is an enemy combatant because he was employed by NGO's that provided some support for "terrorist ideals and causes" and because he "came in contact" with al Qaida members. While this information may raise some suspicion, it does not provide a basis for an enemy combatant determination. Absent any allegations that the Detainee himself "directly supported hostilities in aid of enemy armed forces", the Unclassified Summary (R1) fails to even state a prima facie case that he has been properly classified as an enemy combatant. Simply stated, even assuming all the allegations in Exhibit R1 are accurate, the Detainee does not meet the definition of an enemy combatant. Consequently, the Detainee has constructively been denied his right to prepare and participate in the Tribunal. The Detainee could not prepare for an overall allegation that he is an enemy combatant when the supporting allegations do not even qualify him as an enemy combatant. Based upon this failure to even state a prima facie case and upon the analysis of the classified evidence (see Enclosure (3)(b)), the Author finds that the Detainee has been improperly classified as an enemy combatant.

Respectfully submitted,

  
Major, U.S. Army  
Dissenting Member

**Summarized Unsworn Detainee Statement**

*The Tribunal President read the hearing instructions to the detainee. The detainee interrupts as follows:*

Tribunal President: Adel Hassan Hussein, you are hereby advised that the following applies during this hearing.

Detainee: (interrupting the Tribunal President through interpreter) It's Adel Hassan Hamad, not Adel Hassan Hussein.

Tribunal President: Last name again, I'm sorry.

Interpreter: Adel Hassan Hamad (detainee spells out last name)

Tribunal President: Thank you.

*The Tribunal President continues reading the hearing instructions. The detainee confirmed that he understood the process and had no questions.*

*The Recorder presented Exhibit R-1 and R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).*

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

*The Detainee did want participate and will present an oral presentation from notes and the Personal Representative will provide a translated copy as an exhibit D-b. The detainee asks if he is to read, and that the interpreter will translate. The Tribunal President agrees.*

*The detainee would like to take the Muslim oath. Recorder administers the Muslim oath.*

*The Personal Representative read the accusations to the detainee so that he could respond to the allegations through his oral statement. The allegations appear in italics, below.*

3.a. *The detainee is associated with al Qaida.*

3.a.1. *The detainee was employed by the World Assembly of Muslim Youth (WAMY) in Afghanistan and Pakistan for approximately one and one half years until the time of his capture 18 July 2002.*

3.a.2. *WAMY supports terrorist ideals and causes.*

3.a.3. *During the Period 1986 through 1999, the detainee was employed by Lajanat Dawa Islamiya (LDI) in Afghanistan and Pakistan.*

3.a.4. *LDI has been one of the most active Islamic non-governmental organizations to give logistical and financial support to mujahaddin operating in Afghanistan and Pakistan Area.*

3.a.5. *During the course of his duties with LDI, the detainee came in contact with persons who held positions of responsibility in al Qaida.*

*The following is the sworn statement written statement provided by detainee. (See exhibit D-b)*

Detainee: Replying to the main accusation (A) which states that I'm a member of al Qaida Organization. First, I would like to answer honestly and sincerely that I don't have any association with al Qaida Organization and I don't possess their views because I see them conflicting with the teachings of Islam. Our religion forbids killing of the innocents. Almighty said, "He who kills himself not by himself corrupting the earth is like killing all the people." Killing of pure person with a good soul will bring nothing but harm.

Islam forbids assaulting others without a reason and that is mentioned in more than one Koranic verse. Almighty said, "Don't change that God does not love the attackers;" therefore there may not be any relationship between me and those attackers and killers of the innocent. Nothing connects me to them and there is no connection between them and I, ideological nor organizational. Rather I hate them and I pray to God not to let people among the Muslims carry their ideas.

Second, if I was a member in al Qaida or if I had association to them I would've not traveled in June 2002 to Sudan with my family on an annual vacation and after the vacation ended, I voluntarily returned to Pakistan. If I was a criminal, with association to those criminals, why would I return to Pakistan knowing that the Pakistani intelligence was arresting al Qaida members?

Replying to the sub point number (2) which states the World Scientific Islamic Assembly for the Youth supports al Qaida Organization. WAMY did not support al Qaida Organization and it's a charity organization that works to help the Afghan refugees providing them with food, medicine, clothes, and education, building charter schools which is made of an orphanage, educational training, and also works in the health department by establishing hospitals, small clinics, and also digging water wells, building mosques, and all this were done for the Afghan refugees. Al Qaida members are not from WAMY and they are not Afghan, so how would this assembly support them? That is what my eyes have seen as my testimony by my work before September 2001 as an employee of WAMY and my job there was a manager of the Assembly hospital where I was treating Afghan refugees who came to the hospital for medicine and food.

After September 2001, I returned to the main office in Pakistan where the nature of my work was to distribute aid supplies to the refugee camps in Pakistan where I was legal with official papers and with authorization permit in my passport in Pakistan. I was arrested after returning from Sudan on my annual vacation. I was arrested in my house at 1:30 at night when I woke up and found myself in front of policemen from the Pakistani Intelligence pointing their weapons in my face like I was in a dream or a disturbing nightmare. They were screaming at me "don't move!" So I told them what is it, what do you want from me? And with them was a tall man who did not look Pakistani which I think he was American. So they hand cuffed me and they told me "where are your papers?" (meaning my passport.) So I told them in my shirt pocket. So the tall man checked my passport and he told me that I came back early from the trip. I told him yes. He spoke in poor Arabic. He saw a legal official Pakistani permit by the date that was in my passport which had a legal official authorization posted for two years, Visa, resident in it. So the guard hesitated at the end and asked the tall man "do we take him?" And the man said, "yes take him." So they took me and detained me in jail in Pakistan for six months and ten days. Later I was moved to Bagram and then to Cuba.

Replying to the secondary accusation, which states that I'm in LDI and I contacted members in al Qaida organization. I worked from 1986 to 1999 in LDI as an administrator, teacher, and orphanage administrator for a period of time and when working in LDI, I did not have any association with any person from al Qaida organization and they were not as popular as they became after September 2001. I assure you that I did not contact anyone from al Qaida organization. Let us suggest that I contacted someone who associated with al Qaida, so I must have contacted him in 1999 or 1986 or between 1999-1986 so what's the connection to September 11 of 2001 and before that time period, I left my job with LDI and there was no connection between us.

Replying to the other accusation, I would like to make it clear to the presiding tribunal some important points according to my point of view, which I see as the truth.

You're accusing this organization without affirmation even the rational mind and justice would not accept it and I assure you that this organization does good work according to what I have seen and viewed through 17 years of charity work away from politics, political parties, organizations and terrorists. These charities that have limited resources are not capable of helping terrorists. Terrorists need countries to do something like they did in Washington D.C. Nobody can cause such a big incident with the financial help of charity organization and you know that they were living in Afghanistan with service of Taliban. Financial, weapons, fighters were directly supported by Pakistan government so if they were getting support from two countries and one of them is a nuclear power so why would they need help from a small charity with limited resources. Lets assume that this charity is involved with them however, arresting simple employees like myself is not capable of supporting terrorists financially; is this justice? I am an employee who works for a living and I have no connection to the political views or its financial resources, so why do you punish me for a crime I did not commit. Why don't you arrest the charities' presidents or the people who support financially instead of arresting a simple employee

with no informational value? Needed important information doesn't come from a simple employee because a simple employee only knows how to do his job.

I ask of you, finally, to call upon your moral consciousness and the oath that you promised to bring justice which is known about you, and I assure you that I did not and don't pose a threat to the United States government, and I have no enmity towards them and I never was with any organization or any group that was planning to disarray the U.S government. Rather, I give you all my respect and appreciation for your good treatment of the prisoners and for providing everything we need when we are in Cuba. I hope those words will find its course to the officials and I am not telling you this out of fear or greed. And I thank you very much.

Tribunal President: Does that conclude your statement or is there anything else you would like to add?

Detainee: There's a point I forgot to mention. According to my information, the WAMY, no, the LDI did not support terrorists. They were supporting refugees when I was working for them.

Tribunal President: At this point, I usually like to say that the only piece of information we've seen on you to this point is the unclassified summary. Would you be open to us asking questions of you?

Detainee: I'm ready.

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

Personal Representative: No Ma'am, however, I would like to provide the tribunal the detainee's written statement translated as Exhibit D-b.

Tribunal President: Let the record show I have in possession, Exhibit D-b.

***The Personal Representative and the Recorder had no further questions.***

Tribunal Members' questions

Q. Sir, you testified that Islam forbids assaulting others without a reason. What would be a reason to assault somebody?

A. Only the killer would be killed in Islam. But an innocent person would not be killed.

Q. You alluded to it as well, what your job was for WAMY, but, what specifically did you do?

A. Administration in the hospital. This is before September 2000. And after September I know there was something happened to Afghanistan so as I foreigner, I was a afraid for my life so I left and I was working in Pakistan with the charity, helping with the refugees there, because there were a lot of refugees there.

Q. Did you have any specific training or experience that qualified you for that hospital administrative position?

A. What training?

Q. I don't know that's what I'm asking you?

A. What do you exactly mean by training?

Q. Well, did you have any experience as a hospital administrator before you worked for World Assembly of Muslim Youth?

A. I had an administrative experience my job before was administrative and I worked as administrator there also.

Q. And you are native of which country?

A. I'm from Sudan.

Q. And what's the highest education level that you achieved?

A. I have a diploma in air conditioning or central air conditioning, and a master in Islamic studies.

Q. Can you name a few components in an air conditioning system?

A. 17 years I haven't done anything in that field. I have forgotten most of them. Any air conditioner has a compressor, which is air pressure. And the compressor has Freon in it and condenser.

Q. That's ok I thought it was recent. 17 years ago.

A. 17 years, 20 years now I didn't do.

Q. Why did you leave LDI?

A. After the Gulf War, after Sudaam had invaded Kuwait. The organization was Kuwaiti. So, the support was to my liking to that organization. So, they reduced a lot of the employers work. And I was one of them I guess. Temp workers, a lot of them were laid off. Working for them for fourteen years I was laid off.

Q. So you've been in Pakistan, or Afghanistan for how long? How long did you live in Pakistan or Afghanistan?

A. All my life I was in Pakistan until that year. But I worked in the hospital in Afghanistan.

Q. In the hospital, would you just go over there once in awhile?

A. In every month, when I was working in the hospital, I have in every month I have five days off. Sometimes I would work in the hospital for a month and a half and go back on vacation, or off a week.

Tribunal President's questions.

Q. What actually got you started working in the charity field? Its kind of a long ways from air conditioning?

A. The salaries where I'm from, in my country is very low, very low, in comparing to what the charity pays it's much higher than what they pay.

Q. Did you have your family with you?

A. My family was with me the last time I went on vacation.

Q. And at that point, did you leave your family to go on vacation or took them with you on vacation?

A. I took them with me on vacation and I left them in Sudan.

Q. That just leads me to a follow on question, was it intended that you were going to leave them, because they wanted to stay longer or, you had to get back, or?

A. I have older daughters in post education, Arabic. They wanted to stay in Sudan and study there because we don't have Arabic schools in Pakistan.

Q. So was your plan to continue working in Pakistan to support them in Sudan?

A. I planned to work in the hospital in Afghanistan for a year and a half then go back home. But, I don't know exactly from here, but up to now their hospital's now working.

Q. Just so that I understand, you went back to Pakistan you intended to go back to Afghanistan and work at that hospital?

A. Yes, in Afghanistan, because they needed me to work there.

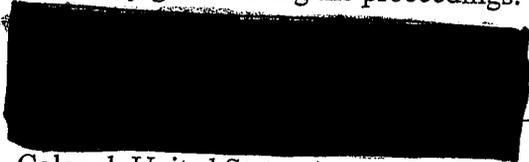
Tribunal President: I want to thank you for participating in this tribunal today. Is there anything else you would like to say to the tribunal?

Detainee: This classification of me as an enemy combatant is an injustice, all my interrogators they told me that I'm innocent that I would be released soon they told me after a month and a month came and I wasn't released. I never had any military training; I don't know anything about any weapons. And I have no connection or relationship to any of those criminals, those killers. That charity was aiding people and it had nothing to do with them.

*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

**DETAINEE ELECTION FORM**

Date: 24 NOV 04

Start Time: 0845

End Time: 1030

ISN#: 940

Personal Representative:  LTC, US ARMY

Translator Required? YES Language? ARABIC

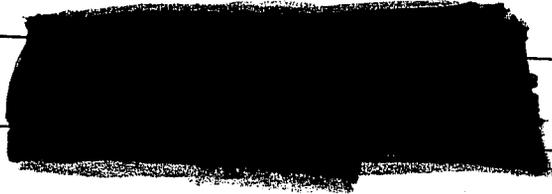
CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

**Detainee Election:**

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

**Personal Representative Comments:**

Detainee will attend; will provide an oral presentation from notes. PR will provide the Tribunal a translated version as an exhibit. He will take an oath.

Personal Representative: 

UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (19 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – HAMED, Adel Hassan

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.
  - a. The detainee is associated with al Qaida:
    1. The detainee was employed by the World Assembly of Muslim Youth (WAMY) in Afghanistan and Pakistan for approximately one and one half years until the time of his capture, 18 July 2002.
    2. WAMY supports terrorist ideals and causes.
    3. During the period 1986 through 1999, the detainee was employed by Lajanat Dawa Islamiya (LDI) in Afghanistan and Pakistan.
    4. LDI has been one of the most active Islamic non-governmental organizations to give logistical and financial support to mujahaddin operating in the Afghanistan and Pakistan area.
    5. During the course of his duties with LDI, the detainee came in contact with persons who held positions of responsibility in al Qaida.
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

1 of 1  
4309

# Memorandum



To : Department of Defense  
Office of Administrative Review  
for Detained Enemy Combatants  
Capt. Charles Jamison, OIC, CSRT  
Date 10/27/2004

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 940 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 08/11/03

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

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

1 of 2  
4310 R2

Memorandum from [REDACTED] to Capt. Charles Jamison  
Re: REQUEST FOR REDACTION, 10/27/2004

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

[REDACTED] IA

Statement of ISN 940

Replying to the accusation number (A), the main accusation.  
Replying to the main accusation (A) which states that I'm a member of al Qaida Organization. First – I would like to answer honestly and sincerely that I don't have any association with al Qaida Organization and I don't possess their views because I see them conflicting with the teachings of Islam. Our religion forbids killing of the innocents. Almighty said "He who kills himself not by himself corrupting the earth is like killing all the people" Pure person with a good soul will bring something good".

Islam forbids assaulting others without a reason and that is mentioned in more than one Koranic verse. Almighty said "Don't change that God does not love the attackers" therefore there may not be any relationship between me and those attackers and killers of the innocent. Nothing connects me to them and there is no connection between them and I ideological nor organizational rather I hate them and I pray to God not to let people among the Muslims carry their ideas.

Second- If I was a member in al Qaida or if I had association to them I Would've not traveled in June 2002 to Sudan with my family on annual vacation and after the vacation ended I voluntary returned to Pakistan if I was a criminal with association to those criminals why would I return to Pakistan knowing that the Pakistani intelligence were arresting al Qaida Members.

Replying to the sub point number (2) which states the World Scientific Islamic Assembly for the Youth supports al Qaida Organization. WAMY did not support al Qaida Organization and it's a charity organization works To help the Afghan refugees providing them with food, medicine, clothes, and in the educational field, building charter schools which is made of an orphanage, educational training, and also works in the health department by establishing hospitals, small clinics, and also digging water wells, building mosques, and all this were done for the Afghan refugees. Al Qaida members are not from WAMY and they are not Afghan so how would this assembly support them and that is what my eyes have seen as my testimony by my work before September 2001 as an employee of WAMY and my job there

was a manager of the Assembly hospital where I was treating afghan refugees who came to the hospital for medicine and food.

After September 2001 I returned to the main office in Pakistan where the nature of my work was to distribute aid supplies to the refugee camps in Pakistan where I was legal with official papers and with a authorization permit in my passport in Pakistan. I was arrested after returning from Sudan on my annual vacation. I was arrested in my house at 1:30 at night when I woke up and found myself in front of policemen from the Pakistani intelligence pointing their weapons in my face like I was in a dream or a disturbing nightmare they were screaming at me " don't move!" so I told them what is it, what do you want from me And with them was a tall man who did not look Pakistani which I think he was American so they hand cuffed me and they told me "where are your papers?" Meaning my passport so I told them in my shirt pocket so the tall man checked my passport and he told me that I came back early from the trip, I told him yes, he spoke in poor Arabic, he saw a legal official Pakistani permit by the date that was in my passport which had a legal official authorization posted for two years resident in it so the guard hesitated at the end and asked the tall man "do we take him?" And the man said "yes take him" so they took me and detained me in jail in Pakistan for six months and ten days. Later I was moved to Bagram and later to Cuba.

Replying to the secondary accusation which states that I'm in LDI and I contacted members in al Qaida organization.

I worked from 1986 to 1999 in LDI as a administrator, teacher, and orphanage administrator for a period of time and when working in LDI I did not have any association with any person from al Qaida organization and they were not as popular as they became after September 2001. I assure you that I did not contact anyone from al Qaida organization. Let us suggest that I contacted someone who associated with al Qaida, so I must have contacted him in 1999 or 1986 or between 1999-1986 so what's the connection to September of 2001 and before that time period I left my job with LDI and there is no connection between us.

Replying to the other accusation, I would like to make it clear to the presiding tribunal some important points according to my point of view, which I see as the truth.

You're accusing this organization without affirmation even the rational mind and justice would not accept it and I assure you that this organization does good work according to what I have seen and viewed through 17 years of charity work away from politics, political parties, organizations and terrorists. These charities that have limited resources are not capable of helping terrorists. Terrorists need countries to do something like they did in Washington D.C. Nobody can cause such a big incident with the financial help of charity organization and you know that they were living in Afghanistan with service of Taliban. Financial, weapons, fighters were directly supported by Pakistan government so if they were getting support from two countries and one of them is a nuclear power so why would they need help from a small charity with limited resources. Lets assume that this charity is involved with them however, arresting simple employees like myself is not capable of supporting terrorists financially is this justice. I am an employee who works for a living and I have no connection to the political views nor its financial resources, so why do you punish me for a crime I did not commit. Why don't you arrest the charities president and financial supporters instead of a simple employee with no informational value? Needed important information doesn't come from a simple employee because a simple employee only knows how to do his job.

#### Conclusion:

I ask of you, finally, to call upon moral consciousness and the oath that you promised to bring justice which is known about you, and I assure you that I did not and don't pose a threat to the United States government, and I have no enmity towards them and I never was with any organization or any group that was planning to disarray the U.S government. Rather, I give you all my respect and appreciation for your good treatment of prisoners and for providing everything we need when we are in Cuba. I hope those words will find its course to the officials and I am not telling you this out of fear or greed.

### Personal Representative Review of the Record of Proceedings

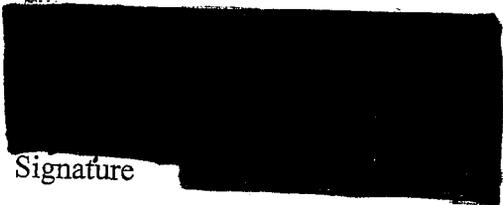
I acknowledge that on 1 <sup>DECEMBER</sup> November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #940.

I have no comments.

My comments are attached.

  
Name

1 December 2004  
Date

  
Signature

ISN #940  
Enclosure (6)