

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABDUL ZAHOR,

Petitioner

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

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Civil Action No. 05-1011 (JR)

**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 Abdul Zahor 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 foreign nationals in order to protect the personal security of those individuals. This staff member also redacted internee serial numbers because certain combinations of internee serial numbers with other information relate 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: 1 June 2005

Teresa A. McPalmer

Teresa A. McPalmer  
CDR, JAGC, USN



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0773

18 MAR 2005

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From: Director, Combatant Status Review Tribunal

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

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

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

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

15 Mar 05

## MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

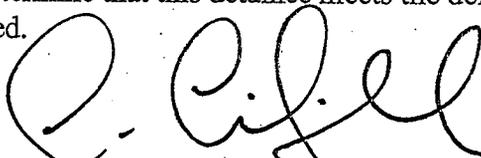
Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004  
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #33 of 8 March 2005  
(2) Appointing Order for Tribunal #24 of 26 November 2004  
(3) Record of Addendum Tribunal Proceedings  
(4) Record of Original 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. The detainee provided a sworn statement to the tribunal.
  - b. The two tribunals that considered the detainee's case were properly convened and constituted by enclosures (1) and (2).
  - c. The tribunals substantially complied with the 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 other evidence be produced.
  - e. On 1 December 2004 a tribunal unanimously determined that the detainee should no longer be classified as an enemy combatant. On 9 March 2005 the tribunal was re-opened for consideration of additional evidence. This additional evidence became exhibits R-27 and R-28 (attached to enclosure (3)). Due to the detachment from OARDEC of one of the three members of the original tribunal panel, the additional evidence, along with the original evidence and original Tribunal Decision Report, was presented to tribunal panel #33 to reconsider the detainee's status. The tribunal president and tribunal judge advocate for both the original and the addendum proceedings were the same. Following their consideration of the additional information along with the original information, the second tribunal unanimously determined that the detainee was properly classified as an enemy combatant.
  - f. Tribunal panel #33's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

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

- g. The detainee's personal representatives were given the opportunity to review the records of proceedings and declined to submit post-tribunal comments to the tribunals.
2. The proceedings and decision of the tribunal meet the minimum requirements for legal sufficiency and no corrective action is required as a matter of law.
3. We must determine whether this detainee has had a fair and meaningful opportunity to contest his status as an enemy combatant before an independent tribunal; and whether the Government possesses sufficient evidence to properly classify him as an enemy combatant. With regard to the first question, the detainee actively participated in the tribunal proceedings and presented his story to the tribunal. With regard to the second question, in analyzing whether there was sufficient evidence to support a tribunal's status 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 and the rebuttable presumption of authenticity and accuracy that attaches to the Government Evidence, I believe that the test is satisfied in this case.<sup>1</sup> 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.



JAMES R. CRISFIELD JR.  
CDR, JAGC, USN

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<sup>1</sup> In paragraph 6 of enclosure 1 of the original Tribunal Decision Report, the tribunal discussed its "consultations with the CSRT legal advisor." Due to the way this paragraph is worded a reader might conclude that the first tribunal misunderstood the proper definition of "enemy combatant." The tribunal described guidance it received from the Assistant Legal Advisor regarding the explanatory language accompanying the definition of "enemy combatant" contained in the references. One could interpret the tribunal's description as indicating that the original tribunal, with the advice of the Assistant Legal Advisor, discarded the phrase, "or has directly supported hostilities" from the definition. Of course, that would be an error because one can be an enemy combatant without ever having personally committed a belligerent act. For instance, a Taliban cook, miles from the front lines and not carrying a weapon, is still an enemy combatant, much the same as a U.S. Navy judge advocate, typing a legal opinion in an office and armed with no weapon other than his trusty letter opener, is still a combatant (albeit a *lawful* combatant). I think it more likely that the tribunal was trying to emphasize the point that "belligerent acts," as well as "support for hostilities," must be in aid of enemy armed forces on order to meet the definition.



Department of Defense  
Director, Combatant Status Review Tribunals

8 Mar 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #33

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

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

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

MEMBERS:

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

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

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

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



Department of Defense  
Director, Combatant Status Review Tribunals

26 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #24

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

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

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

MEMBERS:

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

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

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

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

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**Personal Representative Review of the Record of Proceedings**

I acknowledge that on 09 March 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]  
[REDACTED] LCDR. USN

9 MAR 05  
DATE



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

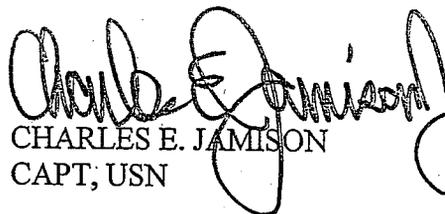
28 January 2005

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

Encl. (4)

[REDACTED]

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL:     #24    

(U) ISN#:     [REDACTED]    

Ref: (a) (U) Convening Order for Tribunal #24 of 26 November 2004 (U)  
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)  
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

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

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 1 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] shall no longer be classified as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal has determined that this detainee shall no longer be classified as an enemy combatant as defined in reference (c), as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

[REDACTED] Colonel, USAF  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION****(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL:           #24          ISN #:           [REDACTED]          **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee shall no longer be classified as an enemy combatant as defined in reference (c). 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 (Exhibit R-1) indicated that the detainee had knowledge of and was involved in a bomb plot against an embassy to include knowing the location of the bomb. The unclassified evidence also stated the detainee was imprisoned for serving under a Taliban commander and had documentation that addressed himself as a commander and also included references of surface to air missiles and personalities identified as the detainee's troops. The detainee was alleged to be a member of "Hezbi-Islami Galbuddin" (HIG) which has ties to al Qaida. The detainee chose to participate in the Tribunal process. He called no witness, requested no document be produced, and made a sworn verbal statement. The detainee, in his verbal statement, denied being a Taliban member and denied being a member of HIG. He also denied being involved in a bomb plot. The detainee testified that he was informing the U.S. forces of a bomb plot. During the hearing, the detainee stated that he was taking medication and a little tired. The Tribunal noted the detainee had a cast on his left ankle/foot. The hearing was recessed once to provide the detainee water. The detainee volunteered that he was able to provide statements and answer questions. The Tribunal President's evidentiary and witness rulings are explained below.

**3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-26.
- 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: no ruling was required.

The Detainee requested no additional evidence be produced: no ruling was required.

#### 5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 through R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Exhibit R-3 was an extract from the U.S. Department of Homeland Security's Terrorist Organization Reference Guide which provided a summary level description of the Hizb-I-Islami Gulbuddin (HIG) organization. (Note: The tribunal recognized there are different spellings of this organization's name in R-1 and R-3 but accepted that both spellings referred to the same organization.) Accordingly, the Tribunal had to look primarily to classified exhibits (as well as the detainee's statement) 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 (3). In sum, the detainee testified that he was never a member of the Taliban and was not a member of HIG. He stated that HIG members killed three of his brothers and also shot him twice. The detainee stated he was sent to prison from approximately 1992 until 1996 by [REDACTED] who had united with HIG. The detainee testified that he was not part of a bomb plot against the U.S. or United Kingdom embassies. Instead, he testified that he had heard about the plot from a girl named [REDACTED] and had volunteered this information to the U.S. authorities. Also, the detainee testified that he was illiterate and that documentation he had when he was arrested was a notebook which had belonged to his deceased brother which he used for keeping money and contained some notes written by others. The detainee testified that one of the notes he had included descriptions of surface to air missiles prepared by an engineer friend named [REDACTED]. The descriptions included the price the United Nations would pay for them if turned in.

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

The Tribunal consulted the CSRT Assistant Legal Advisor during the course of this hearing on the following matters: Specifically, the Tribunal requested a clarification of the specific use of the word "or" in the enemy combatant definition's second sentence related to committing a belligerent act. The definition is provided in reference (c). The portion of the definition is "This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces." The CSRT Legal Advisor advised that to be classified as an enemy combatant the person would have had to commit a belligerent act in aid of enemy armed forces.

Enemy armed forces are defined as Taliban or al Qaida forces or associated forces that are engaged in hostilities against the U.S. or its coalition partners. Essentially the second sentence of the definition of reference (c) can therefore be read as "this includes any person who has committed a belligerent act in aid of enemy armed forces." This clarification was of significant importance to the Tribunal during its deliberations.

#### 7. Conclusions of the Tribunal

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

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

b. The detainee understood the Tribunal proceedings. He indicated that he understood the proceedings, fully participated in his hearing, asked relevant questions, and provided helpful information during his sworn statement. The Tribunal was convinced by his active and thoughtful dialog that any medication he may have taken did not appear to negatively impact his participation in the proceedings.

c. The detainee shall no longer be classified as an enemy combatant as defined in reference (c).

#### 8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[REDACTED]

Colonel, USAF

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-2 thru R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).*

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

*The detainee stated to the Tribunal President that he wanted to make a statement. The Detainee also took the Muslim oath.*

Detainee: I am sorry, I am under medication right now from my doctor. It makes me thirsty and dizzy, so if I don't say things properly I apologize. Everything I will say is the truth.

Tribunal President: Do you need any water before we proceed?

Detainee: Yes.

Tribunal President: A short recess was taken to get the detainee some water. If you need any help with your drink let please ask and we will be happy to help.

Detainee: I just wanted to say that I don't belong to HIG or al Qaida. I served Americans and they captured and punished me for that.

Tribunal President: I am sorry you said they captured me, who are they? Is that the Americans, Taliban or who?

Detainee: I meant we had some personal problems, somebody. I came and told the Americans about the bomb, and they captured and punished me.

Tribunal President: Ok, thank you.

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

*3.a.1. The detainee had knowledge of a bomb plot against an embassy.*

*3.a.2. The detainee knew where the aforementioned bomb was stored.*

*3.a.3. The detainee was determined to have been involved in an embassy bomb plot.*

Personal Representative: Now is a good time to read the allegations and you can describe to the tribunal about the bomb. All three were tied together

Detainee: There was a girl who told me about this bomb. I told a translator named [REDACTED] about this plan. An American got suspicious of him and later they captured me. About HIG I want to tell you that they killed my 3 brothers and they shot me. Why would I want to be with them or even help them?

Personal Representative: Do you want to tell them of details about bomb plot on how you told the Americans and where it was, the relationship with this girl?

Detainee: I was at my home, and then I went to my shop. This girl named [REDACTED] told me that they were planning to bring a bomb in order to make an explosion at the American or British embassy when they get the chance. I was talking to [REDACTED] when she told me about this; I met this man who was an engineer. I told him this story and he introduced me to a translator [REDACTED] and I told him the story. [REDACTED] asked me not to tell anyone, because she was afraid they were going to kill her. I went against her will to report it. I told [REDACTED] to tell the Americans, they wanted her to take them to it, and she explained it was not there yet. When they bring the bomb I will notify you, when they brought the bomb and we told Americans I was detained. American told me how was I going to inform them? I said it's very far I could take a cab, but I don't have any money. They replied we would pay for it. I took the cab; I used the cab driver a couple of times on the last day the cab driver asked me for some money. I told him let's go to the American to get our money, when I got there they detained me. I served you guys and help you.

Personal Representative: Do you want to tell the tribunal where the bomb was?

Detainee: The bomb was in Kabul, in a house where the [REDACTED] lived. Her sisters' husband was supposed to bring the bomb. I did what they told me to do and now they are accusing me of being Al Qaida, HIG, or Taliban show me the proof. I swear to the Koran that I am innocent.

Personal Representative: Did you want to mention [REDACTED] name?

Detainee: I am sorry, I am a little dizzy and sick and I forgot to mention his name. [REDACTED] that was [REDACTED] sisters name, the house was [REDACTED] house and [REDACTED] use to live there. [REDACTED] told me her sister said a bomb was going to be at the house. I told Americans that the bomb was going to be there, I served you and the other detainee might be al Qaida or Taliban but I am innocent.

Personal Representative: Would you like to talk more about the bomb plot or do you want to move on?

Detainee: I told you everything about that. I want to say I never done anything against you. My children are there like orphans, and I don't know why I am still here. I am innocent.

*3.a.4. The detainee was imprisoned for serving under a Taliban commander.*

Detainee: That is a lie I never served Taliban.

Personal Representative: Were you ever imprisoned, if so under whom?

Detainee: I was in prison for 5 years. [REDACTED] put me in prison. I wasn't a director or a commander I was no body my brothers were killed by HIG. There was at some point that HIG and [REDACTED] they were united. [REDACTED] put me in jail; since these two groups joined I had no one to defend me. It was a person prison for that warlord that is why I was there for 5 years chained up. I had nobody my father was real old and couldn't help me, and you are calling me Taliban or a Terrorist. Why didn't you do research on me I never picked up a gun, I was telling my brother to stop fighting or stop the Jihad and nothing good will come out of fighting.

Personal Representative: Do you remember about how long ago you were in prison?

Detainee: I don't remember the exact day. All I remember was that was the beginning of Rabani's government.

Personal Representative: For the record in our initial interview you we determined it was around 1992-1996 was the time frame he was in the prison. Also the HIG and the [REDACTED] came together to fight against the Taliban and you didn't want to fight anybody is that correct?

Detainee: No, it wasn't that way. They were very close with the Taliban; they were close Kabul I didn't want to fight.

Personal Representative: Is there anything you would like to say about the time you were in prison?

Detainee: The only thing I want to add is they were very cruel and they tortured us in the personal prison. This is not a personal prison this is an International Prison so if you can provide all your information that I am a guilty person.

*3.a.5. The detainee was captured with documentation addressing him as a Commander [REDACTED] from [REDACTED] who is identified as a commander of an unknown region.*

Detainee: He is not a commander he is my neighbor. I am not a commander. If I have ever picked up a gun I am guilty and you can call me a commander. I have never picked up a gun in my life. The only problem was that bomb, did you get it from my house and now you are charging me and calling me a commander. Those people had ties with General [REDACTED] he is the minister of defense, and that is why you released them because he had big ties otherwise you would have kept him. I didn't even know him well I just knew his sister.

Personal Representative: Regarding the documentation that you were captured with. Who owned the notebook?

Detainee: That was a very nice notebook and it belonged to my brother. When the new money was issued, I didn't want to crease it so I put it in the notebook to keep it straight.

Personal Representative: Your brother was killed and that is why you kept it?

Detainee: That was the only memory that I had from my brother. It was really nice and I didn't want to write anything on it. Now you are making the memory of brother as evidence against me.

Personal Representative: Can you read and write?

Detainee: No, I am illiterate.

Personal Representative: Why would [REDACTED] call you commander?

Detainee: He was my neighbor and was a very funny man; he was always joking and making fun and stuff. As a joke he used to call me commander. My kids are literate and they can read and write. They laugh when they read letters that I was being called a commander.

*3.a.6. The detainee was captured with documentation that listed personalities identified as detainee's troops.*

Detainee: I don't know anything about it I can't read or write. I just took it cause of the new money and I wanted to keep it crisp and straight that is why I was using the notebook.

Personal Representative: So did you know what was written in the notebook?

Detainee: No, I told you I couldn't read or write. I didn't keep it to read.

*3.a.7. The detainee was captured with documentation that discussed Blowpipe and Stinger surface to air missiles.*

Detainee: That engineer that I mentioned earlier he used to work for the United Nations. The U.N. asked him to help them with the collection of the weapons all over the country. He told me that this is the price if any commanders wanted to turn in the weapons the government would buy it. Then I told him I was going to forget, so he wrote it down so that I could show them this paper.

*3.a.8. The detainee was alleged a member of Hezbi-Islami Galbuddin (HIG) with ties to al Qaida.*

Detainee: I am not; I didn't belong to any parties. Except one party National Kara van and I had the membership card with me and American took that from me too.

Personal Representative: Who shot you and how many times?

Detainee: Galbuddin killed my 3 brothers, I was standing by the door and I didn't have any weapons with me. They shot me twice once in the foot and the other in my back. You think your self someone killed my brothers and shot me how could I go work for that person.

3.a.9. *HIG is listed on the department of Homeland Security Terrorist Organization Reference Guide.*

Detainee: I am telling you he is a terrorist.

Personal Representative: Do you have any more comments you want to make before questioning?

Detainee: The only statement that I have is that I am innocent. I didn't do anything wrong some times people joked around and called me commander but ask anyone in Afghanistan. You are taking that too serious. My two brothers were killed were with [REDACTED] that is not my problem they are dead now.

Tribunal President: Does that conclude your statement.

Detainee: I told you all that I can remember. If you have any evidence keep me here for 5 years if you want. I am not feeling good and I am not arguing with you I am begging you. One thing I want to tell you about that guy [REDACTED] is there was a personal animosity between him and I. The problem is that when I informed American about the bomb they were secretly watching that house. Somehow they found out [REDACTED] was working with a party as well. He was double crossing Americans.

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

Recorders' Questions.

Q. To your knowledge did [REDACTED] ever talk to the investigators?

A. When Americans got suspicious of me then I brought [REDACTED] as proof what I heard from her. An American girl talk to [REDACTED] and [REDACTED] told her the whole story.

Q. So [REDACTED] you brought to the investigators is that the [REDACTED] that spoke to you about the bomb plot?

A. Yes.

Q. For clarification were you ever paid by the United States forces?

A. If I were working for the money I wouldn't be in jail. That was service that I did for free and that is why I am here. In the background on the loud speaker there was an announcement that if you see or hear terrorist and report them to us. That is what I did by telling you about the bomb.

Tribunal Members' Questions.

Q. Why did [REDACTED] go to you instead of someone else? Was she a relative or a friend?

A. She is a relative of my wife.

Q. Was your brother who had the notebook in the Taliban or al Qaida?

A. He was killed but was with [REDACTED]

Q. What was the name of the engineer?

A. [REDACTED]

Q. You said you are a member of the National Kara van?

A. It is a new party; they were giving weapons to their members. They send people to collect weapons from other fighters/warlords. That engineer gave me a membership to that party and when I got home to show the family, my kids were laughing at me to why I got a card from them, but I kept it.

Q. In your prior testimony you gave the name of that leader?

A. The leader of the party was [REDACTED]. He was assassinated and now another man named [REDACTED] is the leader of the party. It is a democratic party.

**Tribunal President's Questions.**

Q. Earlier you said you have a shop. What kind of shop was it?

A. It was a little shop that I ran with the family.

Q. What kind of thing did you sell?

A. We sold fruit, tea, sugar and things like that. I would bring the stuff and my nephew took care of the shop.

*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.

[REDACTED]

Colonel, USAF

Tribunal President

DETAINEE ELECTION FORM

Date: 29 Nov 04

Start Time: 0930

End Time: 1030

ISN#: [REDACTED]

Personal Representative: MAJOR [REDACTED]

Translator Required? YES Language? FARSI

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:**

Requests PR read each piece of evidence one at a time so detainee can respond to each.  
 Has indicated he will take the oath.  
 Detainee did not request any witnesses.

Personal Representative: [REDACTED]

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**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (23 November 2004)

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

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with the Taliban and/or al Qaida.
  - a. The detainee is associated with the Taliban and/or al Qaida:
    1. The detainee had knowledge of a bomb plot against an embassy.
    2. The detainee knew where the aforementioned bomb was stored.
    3. The detainee was determined to have been involved in an embassy bomb plot.
    4. The detainee was imprisoned for serving under a Taliban commander.
    5. The detainee was captured with documentation addressing him as Commander [REDACTED] from [REDACTED], who is identified as a commander of an unknown region.
    6. The detainee was captured with documentation that listed personalities identified as detainee's troops.
    7. The detainee was captured with documentation that discussed Blowpipe and Stinger surface to air missiles.
    8. The detainee was allegedly a member of Hezbi-Islami Galbuddin (HIG) with ties to al Qaida.
    9. HIG is listed on the Department of Homeland Security Terrorist Organization Reference Guide.

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Exhibit   2-1

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

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Memorandum



To : Department of Defense Date 11/22/2004  
 Office of Administrative Review  
 for Detained Enemy Combatants  
 Col. David Taylor, OIC, CSRT

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

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

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

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

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

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

FD-302 dated 03/28/2003

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

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

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Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 11/22/2004

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

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

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

f Border Patrol  
1624 SSG Sims Road,  
AF,  
, TX 79908  
Address: Attn. BPSCC P.O. Box 6017  
, Texas 79906  
ent D. Thew  
5) 724-3218

# Terrorist Organization Reference Guide

January 2004

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**Designated Foreign Terrorist Organizations**

1

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**Location/Area of Operation**

Pakistan and Kashmir. Trained members in Afghanistan until fall of 2001.

**External Aid**

Specific sources of external aid are unknown.

**50. Harakat ul-Jihad-i-Islami/Bangladesh (HUJI-B) (Movement of Islamic Holy War)**

**Description**

The mission of HUJI-B, led by Shauqat Osman, is to establish Islamic rule in Bangladesh. HUJI-B has connections to the Pakistani militant groups Harakat ul-Jihad-i-Islami (HUJI) and Harak ul-Mujahidin (HUM), who advocate similar objectives in Pakistan and Kashmir.

**Activities**

HUJI-B was accused of stabbing a senior Bangladeshi journalist in November 2000 for making a documentary on the plight of Hindus in Bangladesh. HUJI-B was suspected in the July 2000 assassination attempt of Bangladeshi Prime Minister Sheikh Hasina.

**Strength**

HUJI-B has an estimated cadre strength of more than several thousand members.

**Location/Area of Operation**

Operates and trains members in Bangladesh, where it maintains at least six camps.

**External Aid**

Funding of the HUJI-B comes primarily from madrassas in Bangladesh. The group also has ties to militants in Pakistan that may provide another funding source.

**51. Hizb-I Islami Gulbuddin (HIG)**

**Description**

Gulbuddin Hikmatyar founded Hizb-I Islami Gulbuddin (HIG) as a faction of the Hizb-I Islami party in 1977, and it was one of the major mujahedin groups in the war against the Soviets. HIG has long-established ties with Bin Ladin. In the early 1990s,

Hikmatyar ran several terrorist training camps in Afghanistan and was a pioneer in sending mercenary fighters to other Islamic conflicts. Hikmatyar offered to shelter Bin Ladin after the latter fled Sudan in 1996.

#### Activities

HIG has staged small attacks in its attempt to force US troops to withdraw from Afghanistan, overthrow the Afghan Transitional Administration (ATA), and establish a fundamentalist state.

#### Strength

HIG possibly could have hundreds of veteran fighters to call on.

#### Location/Area of Operation

Eastern Afghanistan (particularly Konar and Nurestan Provinces) and adjacent areas of Pakistan's tribal areas.

#### External Aid

Unknown.

## 52. Hizb ul-Mujahidin (HM)

#### Description

Hizb ul-Mujahidin, the largest Kashmiri militant group, was founded in 1989 and officially supports the liberation of Kashmir and its accession to Pakistan, although some cadres are proindependence. The group is the militant wing of Pakistan's largest Islamic political party, the Jamaat-i-islami. It currently is focused on Indian security forces and politicians in Kashmir and has conducted operations jointly with other Kashmiri militants. It reportedly operated in Afghanistan through the mid-1990s and trained alongside the Afghan Hizb-i-Islami Gulbuddin (HIG) in Afghanistan until the Taliban takeover. The group, led by Syed Salahuddin, is made up primarily of ethnic Kashmiris. Currently, there are visible splits between Pakistan-based commanders and several commanders in Indian-occupied Kashmir.

#### Activities

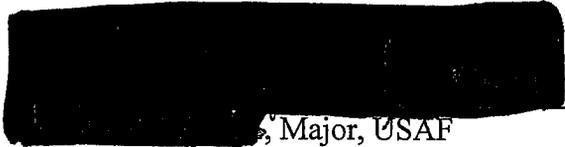
Has conducted a number of operations against Indian military targets in Kashmir. The group also occasionally strikes at civilian targets in Kashmir but has not engaged in terrorist acts elsewhere.

**Personal Representative Review of the Record of Proceedings**

I acknowledge that on 7 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #949.

I have no comments.

My comments are attached.

  
\_\_\_\_\_, Major, USAF

7 Dec 2004  
Date

7 Feb 05

## MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SRC*Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004  
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #24 of 26 November 2004  
(2) Record of Tribunal Proceedings

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

a. The detainee was properly notified of the Tribunal process and elected to participate. *See* exhibit D-a. The detainee also provided a sworn oral statement in question and answer format to the Tribunal. *See* enclosure (3). 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 the 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 on his behalf.

e. The Tribunal's decision that detainee # [REDACTED] shall no longer be 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. *See* enclosure (5)

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

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

3. I recommend that the decision of the Tribunal be approved and the record of proceedings be forwarded to the Secretary of the Navy in accordance with reference (b).

*Peter C. Bradford*

PETER C. BRADFORD  
LT, JAGC, USNR

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ALIF MOHAMMED,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-0885 (GK)

**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 Alif Mohammed 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: 789

29 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 972**

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 #972 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH  
RADM, CEC, USN

Distribution:

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

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24 Jan 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 # 972

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

Encl: (1) Appointing Order for Tribunal # 12 of 29 September 2004  
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of and actively participated in the Tribunal process. The detainee provided a sworn oral statement at the Tribunal hearing.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b).
- d. The detainee requested one witness Kushky Yar, Internment Serial Number (ISN) 971.<sup>1</sup> He proffered that this witness would testify that the detainee was not a Commander for the Wahid compound near Lejay, Afghanistan. While the Tribunal President did not make a determination that this witness was relevant, the proffer clearly indicated that this witness was relevant. The Tribunal President determined that the witness was reasonably available.

The detainee did not request any other witnesses or evidence.

- e. The Tribunal's decision that detainee # 972 is properly classified as an enemy combatant was unanimous. In my opinion, reasonable tribunal members could determine that the detainee is an enemy combatant based on the evidence presented to the Tribunal. I can find no reason to disturb that determination.

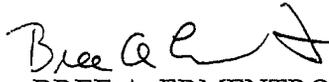
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<sup>1</sup> Note that enclosure (2) to the Tribunal Decision Report incorrectly refers to detainee #971 by another ISN. This is a clerical error that does not affect the legal sufficiency of the proceedings.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 972

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

  
BREE A. ERMENTROUT  
CDR, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

23 December 2004

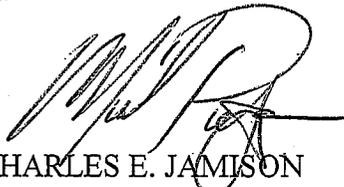
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 972

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

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

FOR

  
CHARLES E. JAMISON  
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

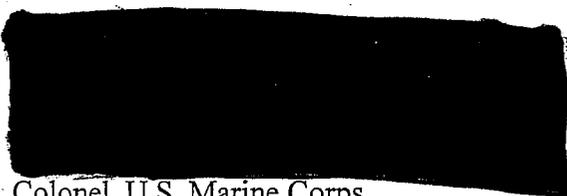
(U) TRIBUNAL PANEL:   #12  

(U) ISN#:   972  

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

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

1. (U) This Tribunal was convened on 21 November 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).
2. (U) On 21 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #972 is properly designated as an enemy combatant, as defined in reference (c).
3. (U) In particular, the Tribunal finds that this Detainee was part of, or supporting, forces associated with the Taliban that are engaged in hostilities against the United States and its coalition partners, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Marine Corps  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #12  
ISN #: \_\_\_\_\_ 972

### **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, forces associated with the Taliban that are engaged in hostilities against the United States and its coalition partners. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

### **2. Synopsis of Proceedings**

The unclassified evidence presented to the Tribunal by the Recorder alleged that the Detainee is associated with al Qaida and the Taliban. The Detainee served as a security guard and, supposedly, also a military commander for the Wahid (Abdul Wahid) compound near Lejay, Afghanistan. Abdul Wahid was the district chief of Baghran, Afghanistan during the Taliban reign. The Detainee participated in military operations against the United States and its coalition partners. Inhabitants of the Wahid compound ambushed U.S. forces and the Detainee used his phone to orchestrate an ambush on the U.S. forces. The Detainee was captured with a freshly fired AK-47, a bandoleer, and three full AK-47 magazines in his possession and was wearing a vest and an OD (olive drab) green jacket. The Detainee chose to participate in the Tribunal process. He called one witness, requested no documents be produced, and made a sworn verbal statement. The Tribunal President found the requested witness reasonably available and was produced for the Tribunal. The Detainee, in his verbal statement, denied being a commander for Abdul Wahid, but stated he was a metal worker only. He stated that he never had a telephone and that he cannot even write his name. The Detainee stated that when he was captured he told the soldiers that the AK-47 was not his and stated that his coat was not olive or OD, it was cashmere.

The Tribunal President's evidentiary and witness rulings are explained below.

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

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, and R-1 through R-11.
- b. Testimony of the following persons: Kushky Yar (Internment Serial Number (ISN) enclosed in Enclosure (2) to the CSRT Decision Report).
- c. Sworn statement of the Detainee.

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

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

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Kushky Yar	Reasonably available	Yes

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

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony and the testimony of the witness. A summarized transcript of the Detainee's and the witness's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he is not associated with al Qaida or the Taliban. He claimed he did not work for Wahid, that he is only a metal worker only and never supported Wahid's forces or the Taliban or ambushed U.S. forces. The witness corroborated the Detainee's story.

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

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

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

**7. Conclusions of the Tribunal**

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

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

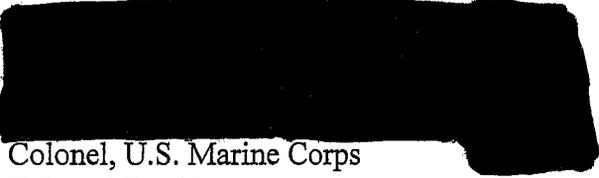
b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant because he was part of, or supporting, forces associated with the Taliban 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. Marine Corps  
Tribunal President

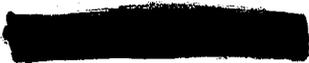
DETAINEE ELECTION FORM

Date: 15-Nov-04

Start Time: 0900

End Time: 1030

ISN#: 972

Personal Representative:   
(Name/Rank)

Translator Required? YES Language? PASHTU

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:**

WILL participate in Tribunal. Has one Detainee witness, YAR, Kushky ISN-971. This witness can testify that the detainee was NOT a Commander for the Wahid (Abdul Wahid) compound near Lejay, AFG.

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Personal Representative: 

Summarized Detainee Sworn Statement

*The Tribunal President read the Hearing Instructions to the Detainee and asked if he understood the process to which the Detainee responded:*

Detainee: I am very happy that my Tribunal eventually takes place. You seem to be very nice gentlemen. You are very nice men and the government appointed you. You are very intelligent people as I look at you and I am happy for that.

Tribunal President: Thank you. We want you to know that we have taken an oath to be sure that we carry out our responsibilities in determining whether or not you have been properly classified as an Enemy Combatant.

Detainee: I saw the whole thing and I enjoyed it. I saw honesty. He (the Recorder) was giving the oath and you guys took the oath. That was good.

Tribunal President: Very good. We'll go ahead and continue at this time. Personal Representative, please provide the Tribunal with the Detainee Election Form.

*The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal.*

*The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents.*

*At the conclusion of the Recorder's description of the contents of Exhibit R-1 the Detainee began to speak. The Tribunal President then informed him that there were a couple of other administrative matters that needed to be addressed and he would then be allowed to make his statement.*

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

*The Tribunal President confirmed that the Detainee had no documents that he wished to present to the Tribunal as per the Detainee Election Form. The Tribunal President went on to confirm that the Detainee requested to have one witness participate in the Tribunal on his behalf.*

*The Tribunal President opened the Tribunal to the Detainee to make his statement.*

Tribunal President: Alif Mohammed, you may now present any information or evidence you have to this Tribunal and you have assistance of your Personal Representative in doing so. Do you still wish to present information to this Tribunal?

Detainee: First, God bless you over my eyes. It's an Afghani expression.

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

Detainee: I can take an oath from one of the four holy books: the Quran, Bible, Torah, and the fourth one David's book. The things that I know I can give information about, as long as I know about them.

Tribunal President: Very good. We have a Muslim oath prepared and the Recorder can administer the oath to you if you like.

Detainee: Yes, yes, I understand this.

Tribunal President: Recorder, please administer the Muslim oath to the Detainee.

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

Tribunal President: Thank you. Alif Mohammed, you may begin.

Detainee: God bless you. I have a witness. If I had worked with Abdul Wahid at his compound you can cut my hands here (making a gesture to his wrists). I work with metal. I am a metal worker, a tinsmith. Eight years I have worked with Sahad Jhun (ph) at the time when the Russians were in Afghanistan.

Personal Representative: May I ask you (the Detainee) a question?

Detainee: Yes.

Personal Representative: When we met I took notes regarding each point. Could we go over each one now? I'll read my notes and then you can add more to it. Is that agreeable?

Detainee: Yes, go ahead.

Personal Representative: That way we can cover each point.

*3.a.1 The Detainee was a security and military commander for the Wahid (Abdul Wahid) compound near LeJay, Afghanistan.*

Detainee: No, I was not. I was a metal worker. I worked with metal.

Personal Representative: Also, when we met he told me that he was not. It was during the Russian conflict. During the Russian conflict Sahar Juhn (ph) was his commander for eight years.

Detainee: Yes, that is true.

Personal Representative: He was not a commander for Abdul Wahid.

Detainee: No, I was not. Abdul Wahid is my enemy. He killed my nephew. Sangen (ph) was his name. He killed him and his wife both.

Personal Representative: That's right.

Detainee: His wife was pregnant and he killed that baby too. He is not a Muslim at all.

Personal Representative: He (apparently his nephew) also said to me that he would never get involved with him (apparently Wahid). I was never in any compound near LeJay, Afghanistan but Wahid had a castle in LeJay.

Detainee: Yes, he had one and he forced people to build that for him. Yes, he forced people.

Personal Representative: Is there anything else you would like to say about number one, about you being a commander?

Detainee: No, I don't have anything else to say.

Personal Representative: Let's go on to the second one, if you will.

*3.a.2. Abdul Wahid was the district chief of Baghran, Afghanistan during the Taliban reign.*

Detainee: At the time of Taliban he was nothing. He didn't have any job. He was just wandering around. He was not a commander of Baghran at that time.

Personal Representative: He also told me that the Taliban did not want to work with him. During the Taliban government he had no position. During the Russian conflict he was...

Detainee: At the time of Russia he had a little group behind him but at the time of Taliban he didn't have anything.

Personal Representative: He also told us during our conversation that the Taliban was looking for him. He was scared of the Taliban. They were looking for Abdul Wahid.

Detainee: Yes, a lot of people complained to the Taliban government that he had been cruel to us. He has confiscated our land and he is killing people.

Personal Representative: Is there anything else you would like to say about Abdul Wahid?

Detainee: This is done.

*3.b.1. U.S. Forces were ambushed by inhabitants of the Wahid compound.*

Detainee: No, he didn't have people. When I was there, I didn't hear even one shot. He didn't have anybody there at that time.

Personal Representative: When we met, he said, "I did not participate." I swear to God I did not use one bullet. He never ambushed any U.S. forces.

Detainee: That night I was watering the land and three people came to me and said, "Raise your hands," and they arrested me.

*3.b.2. During initial contact during ground operations the U.S. forces reported the Detainee had a satellite phone in his possession.*

*3.b.3. The Detainee used his phone to orchestrate an ambush on the U.S. forces.*

Personal Representative: The second and third ones say that the U.S. forces reported that he had a satellite phone at his position and he used that phone to orchestrate an ambush.

Detainee: I swear to God that I don't have a telephone. I never had a telephone. I can't even write my name. You can ask people. I am illiterate. I'm just a tinsmith.

Personal Representative: That's what he said to me as well.

Detainee: I can't write my name. You can ask people. There were no schools in our area. I didn't go to school. My dad had some cattle and he was a farmer so I worked with him.

*3.b.4. The Detainee was captured with an AK-47, bandoleer, and 3 full AK-47 magazines.*

Detainee: There's a water resource and about 74 houses around this water spring. The soldiers told me that we found a Kalashnikov there in the desert, [and they asked me] "Is that yours?" I told them no, this is not mine.

Personal Representative: When we met, he said actually, when I was captured I was swimming and washing in a canal. His clothes were next to the canal. They searched it and there was only scissors, cigarettes, tobacco, and hashish. There were no weapons near his clothes.

Detainee: Scissors, cigarettes, matches and some hashish, I'm not lying to you. These are the things that I had in my possession.

Personal Representative: And then he said that they did not find weapons with him.

Detainee: I swear to God that they have not found any weapons from me. I had scissors, two matches, some hashish and a container for snuff.

Personal Representative: Also, he told me that took him to the Wahid castle. They told me they found the weapons in a place at the top of the canal.

Detainee: They took me to Wahid's camp and there is no one in that camp. Wahid has moved. Only two people are there. Salhajidi (ph) and Inladin (ph) are there and there was a cow. One of them was taking care of the cows and the other one is a servant.

Personal Representative: He also discussed with me that they accused him of owning the weapons. He had told them that he had surrendered his weapons before he was captured, thirteen months before to Mullah Abdul Lula (ph), a leader of the tribe. The weapons were turned over to the government.

Detainee: I had one gun and I gave it to Mullah Abdul Lula (ph). It was a straight gun. Karzai came to power, he is Pashtun; we are all Pashtuns. He asked people to surrender their weapons, so we all surrendered our weapons. Some people gave the government their cars too, if they had cars. I have one long gun at home. This is like an old type of gun and the Americans saw it and gave it back to me. It takes a powder. They didn't tell me anything. They just left it back there.

*3.b.5. When captured, the Detainee had a freshly-fired AK-47 in his possession, as well as 3 loaded magazines, a vest, and was wearing an OD green jacket.*

Detainee: It's not a vest. It's a coat. I bought it for 750 dinar. I bought it from Muhammed Zia (ph) the shopkeeper. He is alive and my coat is here. The government has my coat. Go see my coat. It's not olive or OD. If you ask that shopkeeper, if he sold Alif a coat, he would tell you, yes, I sold him the coat. If he doesn't say it, you can cut my hands.

Personal Representative: When we met, he told me that when he was captured he did have a vest and he did have a green jacket. He told me he did have a green jacket, but he did not have an AK-47 or magazines.

Detainee: I have my clothes here. I have my coat here. I have my vest here. They brought it here from Baghran to Cuba and now they are here in Cuba.

Personal Representative: Do you want to say anything else about these accusations?

Detainee: I swore earlier and I swear again. I am not associated with al Qaida. I am not associated with Taliban. I have not worked for Wahid. I am a metal worker. I work with metal. You bring the equipment and I will make anything for you. I will make a sickle right here in front of you. I can make a knife, an ax, this is not a lie, I can make everything you want me to make. Ask Karstii Al (ph) I make a lot of things for him. I'm left handed. I work like hell when I love a guy.

We were very happy in our town when Americans came to Afghanistan. They brought some peace. The amount of death and killing was reduced so we took good care of them. They came to our town three times. We killed a sheep, six chickens, and a goat for them. We took good care of them. We cooked a lot of food and they were so happy. You talk to

them. You know about our religion. We have respect for the Bible, the Tora and the four books. We believe in them. They are not communist. They are not Russians. They believe in God. When they marry we have the (inaudible). They cut their nails, they clean their bodies, they are good people so we are happy for them. They are not like Russians that don't believe in God. It has been a long time ago that it was predicted that Afghans and Americans will get together with Pashtuns and we all become Muslims and fight the Chinese and Farsi speaking people and the Russians and we will win. Professor Khafar (ph) is an old man. He is my teacher and he told me that there are two dry ditches, and the water will come to those ditches. The water will run again. Americans will come and we will all unite and defeat Russians. This was predicted by my teacher. I have great respect for them. They're (Americans) always welcome. We are happy for them that they came to Afghanistan. There is less violence. I will never fight against them. I have never fought in the past. I always support them. If anybody proves that I have worked with Wahid or that I have worked with al Qaida or the Taliban, you can cut my throat right here. Otherwise, let me go. I have ten kids at home that are waiting for me. God is watching upon you.

I am very happy for this Tribunal. This Tribunal will find and bring out the facts. I have never fought and I will never fight you guys. This is the wrong intention if anybody wants to fight. This country is strong. Many countries cannot fight them. How can I fight; I am a tinsmith? I work with metal.

Personal Representative: Can we ask you some questions?

Detainee: Yes, of course (inaudible).

Tribunal President: We may have some questions for you. Does this conclude your statement at this time?

Detainee: God bless you over my eyes.

Tribunal President: I just want you to be aware that we have not seen any information in you file. We know very little about you, and that is only what these two pieces of evidence that have been produced thus far. This is all we know about you so we may have some questions to clarify some things.

Detainee: God bless you. I will be happy to answer questions.

Tribunal President: Very good. Thank you. Personal Representative, do you have any questions or additional information to bring to our attention or questions for the Detainee?

Personal Representative: Thank you, Sir, yes I do. I have a few questions to ask the Detainee.

Personal Representative's questions

Q. My first question would be, were you ever trained as a soldier or fighter, ever?

A. I have never been trained, but I can tell you the story when I was in the military.

Q. That's what I meant. Were you ever trained? You were in the military. Were you ever trained?

A. No, it was the time of the Russians when you're talking about military. I was there for two months and 16 days and then I ran away from the military. (inaudible).

Q. My second question would be, the green jacket that you had, the OD green jacket, was it a military type jacket?

A. No, no, no. It's a regular jacket that they sell at the bazaar and it had several pockets. There are many of them in the bazaar.

Q. That was my follow up question. Did many people have this type of jacket?

A. They make it out of cashmere, a lot of people are wearing that. It was the style. What color do you like? This color, this color, or that color, they would make it for you. It's like cashmere. It's very similar to these pants (referring to the bottoms of the Detainee's detention uniform).

Q. Did you ever see soldiers wear that type of jacket?

A. No, only civilians wear it. They put their snuff containers in it or beads, bread or hashish in their pockets.

Personal Representative: That was all the questions that I had, Sir, thank you.

Tribunal President: Very well thanks. Recorder, do you have any questions for the Detainee?

Recorder: No, Sir.

Detainee: May Allah the compassionate and merciful bless you.

Tribunal President: Thank you. Do any Tribunal members have questions?

Tribunal Member's questions

Tribunal Member: Good afternoon to you.

Detainee: May Allah the compassionate and merciful bless you.

Tribunal Member: We appreciate the chance to speak with you today.

Detainee: I am very happy that you talk to me today too.

Tribunal Member: We are not familiar with some of the thing that you have told us so I would like to ask you a few questions please.

Q. Earlier you said that Abdul Wahid did not have a job during the Taliban. He just walked around. So I wondered, who is he that he can make people build a castle for him?

A. At the time of the Russians, he was a big commander. He built it at that time. It's a big house and he routed the water to this house. He has four water wells in his guesthouse. This is the land of LeJay but he is from Shingha (ph) and has places now in LeJay.

Q. Is he a leader of your village or province?

A. He is from another area far from here. It's called Zindaw (ph). But he built two houses. One in the LeJay area and one in the Lahore (ph) area, he built these houses.

Q. During the time we are talking about here, did he have people working for him?

A. At this time people don't know where is the son of a bitch. He just got lost.

Q. I was sorry to hear that he killed members of your family.

A. This lady went away and eloped with my nephew Sangen. With Sangen, my nephew, she went to another town. She was divorced from her husband and he was protecting her. Wahid confiscated some cows, sheep, and goats from the father of Sangen. His name was Uncle Hatum (ph) and he gave to the father of this lady to bring some reconciliation. He had Sangen to divorce his one wife and gave his previous wife to somebody else. Sangen, after eight months, returned with that wife and she was pregnant. He killed them both. The woman and my nephew.

Q. Why did he do this?

A. Because the woman was from the tribe of Perisi (ph). We are Hollisi (ph). Just to make Perisis (ph) happy, they killed him. Now our village, our town, is angry because of that.

Q. Did you, yourself, have any personal dealings with Abdul Wahid ever?

A. No, my house is far away from him. I don't have any personal thing with him.

- Q. During the Russian jihad, you were with Sahar Juhn (ph) for eight years and together you helped push out the Russians?
- A. Yes, I was with Sahar Juhn (ph) and Sahar Juhn (ph) was killed in Kandahar. Then I was with Mala Kareem (ph) for two years. After he died, I haven't fought anyone. I'm just doing my metal work in my area.
- Q. How did you learn to use the weapons that you needed to fight?
- A. From communist we confiscated eight guns in the Kajaki (ph) area of Kandahar. Over there we figured it out. There was one farmer who knew how to use it. He showed us how to use it and how to fill it with bullets. We figured it out.
- Q. So, before that time, before the Russian jihad, you had never fought or knew how to use any weapons?
- A. We didn't have any weapons prior to the Soviet invasion. Then the Americans distributed some guns to tribesmen. In our area there were only two guns. Everybody was fighting over those two guns. Little by little, the number of guns increased in our area so people had guns later on.
- Q. If people in your tribe know that you are an enemy of Wahid because of what he did to your family, why do you think someone would say that you are with him?
- A. No, I was never with him. I don't know who said that. Whoever said that, bring him as a witness to testify that I was with him; I have never been with him.
- Q. Did you know of people in your village who were against the American presence there?
- A. No, I swear to Allah that there is not a single person. Three times Americans came to my village. They asked for Abdul Wahid three times. We gave them rice, we gave them meat, we gave them fruit. If they come twenty times more, we will give them food and tea. Arresting me, there was a bright guy looking like him (referring to one of the Tribunal members), he stepped on my side and said, "Don't arrest this guy, this is a good gentlemen." But, there was an interpreter, he was Hazara (ph), a Farsi speaker, he said something about me to him and they arrested me. Hazaras (ph) are the defenders of Dostum (ph).
- Q. It sounds like Abdul Wahid and his people are definitely against the Americans. Would you agree with that?
- A. No, no, I don't think so. I don't think he is an enemy of Americans either. He has been, according to people, seen with Americans. The Americans got him and took him up to the Lahore area and then released him back. No, they don't have

animosity. He was happy that the Taliban's government failed. People say that Taliban called him Toboki (ph).

Q. What does that mean?

A. It means no good. Good for nothing.

Q. Well if you and your village were with the Americans and you think Abdul Wahid is with the Americans, who attacked our forces where you were?

A. No one has attacked Americans. Not this time. If they have attacked Americans some other time, probably so. I was there all the time, and no one has attacked Americans.

Tribunal Member: Thank you very much. I don't have anything more for you.

Detainee: Thank you very much. God Bless you. May God send you to Heaven with us together. If you don't help me, I may say the opposite. I either pray or I cry.

Tribunal Member: I'm in no hurry to get to Heaven, but I have no questions. Thank you.

Detainee: Thank you very much. If you guys treat me right, may God send you to Heaven.

There was a poor man sitting somewhere and Moses was crossing that area. Moses told this poor man to get out of this area because it might rain. This guy told him there is no sign of rain in the sky. When God heard that he asked Moses why did you tell him that the rain will come? There is no rain now. He told God, you can make it rain anytime. God will (inaudible) because you told that poor guy, I'll make a little rain just because you told him already. So it rained just enough rain to cover that poor man. The poor man was so upset. He was sitting somewhere all wet and Moses was coming on his way again. He asked the poor man, "Why are you so upset?" He said, "It's because of you. You made me all wet. If you didn't tell me that you didn't ask God, I wouldn't be wet." So big people are doing big things.

Why would we fight Americans? There is no reason. You opened some schools. You made some streets. You give some money to poor people. You brought a little peace to Afghanistan. We don't fight you guys. We fight Russians because they confiscated our land. They would take the land of one person and give it to another person. They would do illegal marriages. This is why we fought them. We never fought Americans.

Look at them (the Tribunal members). Look at their faces, so bright and shining. You look at a Russian's face, he's all nasty. Their faces were full of scars and pimples. Allah doesn't need our prayers. Allah doesn't need our fasting either. But Allah sees them that they go to the church and pray, so Allah is happy.

Our leaders, religious leaders pray, dear God, make them Muslims. They never say dear God kill them. Now I am happy for you and I hope that you are happy for me.

Tribunal President: I have a couple of questions.

Tribunal President's questions

Q. During the time the Taliban was in control of the Afghanistan government, what did you do for a living? How did you sustain yourself?

A. I was a metal worker.

Q. Did you ever do any work, or make any weapons, or provide any type of support to the Taliban?

A. No, I never supported them. I cannot make weapons. I can make simple tools like sickle, and ax, I have a little blowing device and I have a guy who was working with me and helping me. That's all that I do. I also sharpen some tools. When you release me, I hope you give me some money. Americans are rich. They have more money. I have ten people.

Tribunal President: Are there any more questions (to the Tribunal members)? Thank you for your testimony.

Detainee: May Allah give you higher rank. To everyone of you.

Tribunal President: Thank you. Personal Representative, at this time does the Detainee have any previously approved witnesses to bring before the Tribunal?

Personal Representative: Mr. President, yes Sir. We would like call as a witness, Detainee 971, Yur Kuski (ph).

Tribunal President: Please notify the MPs to escort that witness into the tribunal room.

*The Tribunal took a short recess to allow the witness to be brought into the hearing room.*

*The Tribunal President explained to the witness why he was there and asked him to verify his name.*

*The witness was then sworn in using the Muslim oath.*

Detainee's questions to the witness

Q. Do you know me?

A. Yes, I know you.

Q. What is my name?

A. Your name is Alif Mohammed.

Q. Who is my father?

A. You are the son of uncle Mohammed Kiup (ph).

Q. Where am I from?

A. You are from LeJay.

Q. Have I worked with Abdul Wahid in his compound?

A. No, you have not.

Q. Have I worked with al Qaida or Taliban?

A. No you have not.

Q. What is my job over the past ten years?

A. You are a metal worker, you are a tinsmith, and you also work on your land.

Tribunal President: Do you have any other questions for the witness?

Detainee: What do you want me to ask him?

Tribunal President: I just want to be sure that you have asked all the questions that you wanted.

The Detainee resumed his questions to the Witness.

Q. Did you or I have any intention to fight against Americans?

A. No, we don't have those intentions. They came to our town ten times. If we wanted to fight them we would have fought them the first time but we didn't fight them.

Q. When they caught me at the water source area, did I have a weapon on me?

A. No you didn't have any weapons on you.

Q. Did I have a radio on me at that time or do I know how to use a radio?

A. No, you didn't have that.

Q. This is my witness. I am a poor man. Now it's your decision.

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

Personal Representative: Thank you, Sir, yes I do.

Personal Representative's questions to the witness

Q. How far away was your village from the Wahid compound?

A. My house from Wahid's house is about 300 to 400 meters away from his house.

Q. Were you captured with Alif?

A. They arrested him near the water spring and I was arrested somewhere else.

Q. Do you know if Alif had a satellite telephone?

A. No, we don't have those things. We live in a mountainous area. American soldiers have seen our area. We can't ever write our names. Ask him if he can write his name. He doesn't even know how to read Quran.

Q. My last question would be, did you ever, ever, ever see or hear fighting at that Al Wahid Compound?

A. No, he has never worked with Wahid. He is a metal worker, he has ten kids, he is taking care of his kids, he has a little land, and he works on the land.

Q. My question is not about Alif, it's about the witness. Did you ever hear or see fighting? Not him fighting but any kind of fighting at the compound?

A. No, there hasn't been any fighting around Wahid's compound. If there were, probably he would have been arrested by now.

Personal Representative: Thank you. No further questions Sir.

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

Recorder: No, Sir.

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

Tribunal Members' questions

Tribunal Member: Good afternoon to you.

Witness: Good afternoon to you.

Q. This is the first time that we have seen you. So we are not familiar with your file or anything about you. Can you tell us if you are in the camp for the same reason that Alif Mohammed is in the camp?

A. No. His allegations are his allegations. My allegations are mine. I worked for other people. I drove a tractor. I am a tractor driver and I have kids at home.

Q. Today we have been talking about people who attacked American soldiers in the area of LeJay. Do you know anything about this?

A. Prior to my arrest, up to the time I was arrested, no one has attacked Americans. I don't know if anybody has. Nobody has ever told me that people have attacked Americans.

Q. But you never saw anybody attacking Americans when you were in LeJay?

A. Prior to my arrest they were there in the area for two days. No one has fought them or shot one round at them.

Q. Were you present when Alif Mohammed was arrested?

A. No, he was arrested prior to me. They had covered his eyes and they had tied his hands and he was sitting there between American cars.

Q. So you did see him get arrested?

A. He was arrested in the morning. I was arrested in the afternoon. He said he was swimming and they arrested him.

Q. You saw these things with your own eyes or people told you about it?

A. Yes, I saw these things with my eyes.

Q. Do you know why they arrested Alif Mohammed?

A. No, I don't know. Many people have been arrested and probably many people are innocent. They have been arresting innocent people.

Q. Ho many people from your village are here or have been arrested?

A. Four people from our village are here.

Q. Four?

A. Yes.

Q. Did you see the other two people arrested?

A. One was arrested with me. The other guy was basking in the sun and he got arrested.

Q. Over what period of time were all four people arrested? Was it all the same day, the same week, what was the period of time?

A. We were all arrested the same day.

Q. Right after the attack on American forces?

A. No, their vehicles arrived in the town, but there was never an attack.

Tribunal President: This Tribunal thanks you for your testimony today. At this time you are accused, and the MPs can escort the witness away.

Witness: May I ask a question?

Tribunal President: Yes, you may ask a question before you leave.

Witness: We are people of suburbs. We are people of a mountainous suburb. We don't know much civilization. We are poor people and we are innocent people. Your military men come over there and they arrested us. We didn't have weapons. We have not caused any troubles for anybody. Now we are here two and half years in Cuba. This is cruelty and it's not fair.

Tribunal President: Thank you for your testimony today. The MPs may remove the witness.

***The Tribunal took a short recess to allow the Detainee to be removed from the hearing venue.***

Tribunal President: Alif Mohammed, we have heard the testimony of the witness. Do you have any other information or evidence to present to this Tribunal today?

Detainee: I don't have anything else to say. For God's sake help me if you can.

Tribunal President: We will take everything that we have told us today in your statement and the witness' statement into consideration as we make our determination of your Enemy Combatant status.

*The Tribunal President confirmed that the Personal Representative had no further evidence to present and that the Detainee had no additional previously approved witnesses to present to the Tribunal and closed the open session.*

*The Tribunal President explained the remainder of the Tribunal process to the Detainee who when told that he may need to contact his family if he was found to be an Enemy Combatant made the following comment:*

Detainee: That place is too far from here for my family. If I ask them they might help.

*The Tribunal President continued reading the hearing instructions and thanked the Detainee for his courteous participation.*

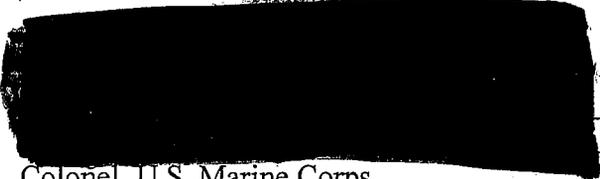
Detainee: I will personally pray for you too and I thank you. I know people. I know their faces. Your faces are bright and shining. These are the faces of good people.

Tribunal President: We thank you and this concludes the open session of this Tribunal.

*The Tribunal President adjourned the open session.*

AUTHENTICATION

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



Colonel, U.S. Marine Corps  
Tribunal President

Recorder Exhibit List  
For  
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	E-mail: CJSOTF RFI C2567 dtd 03-MAR-2003	FOUO//LES
R3	Operation Summary (OPSUM) Eagle Fury dtd 24-FEB-2003	SECRET
R4	SIR THT 2-006-03	SECRET//NOFORN
R5	Capture Report Initial Screening Data 11 FEB 03	SECRET//NOFORN
R6	CITF-CDR Memorandum dtd 26-MAR-2004	SECRET//NOFORN
R7	JTFGTMO-CG Memorandum dtd 10-JAN-2004	SECRET
R8	JDIMS Baseball Card	SECRET//NOFORN
R9	Capture Email dtd 15-FEB-2003 (JPEG file)	SECRET//NOFORN
R10	Capture Email dtd 20-MAR-2003 (3 JPEG files; pages 1 through 3)	SECRET//NOFORN
R11	Capture Email dtd 11-FEB-2003 (4 JPEG files; pages 1 through 4)	SECRET//NOFORN

UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (04 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – MOHAMMED, Alif

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida and the Taliban and also participated in military operations against United States and its coalition partners.
  - a. The detainee is associated with an al Qaida and the Taliban:
    1. The detainee was a security and military commander for the Wahid (Abdul Wahid) compound near Lejay, Afghanistan.
    2. Abdul Wahid was the district chief of Baghran, Afghanistan during the Taliban reign.
  - b. The detainee participated in military operations against the United States and its coalition partners.
    1. U.S. Forces were ambushed by inhabitants of the Wahid compound.
    2. During initial contact during ground operations the U.S. forces reported the detainee had a satellite phone in his possession.
    3. The detainee used his phone to orchestrate an ambush on the U.S. forces.
    4. The detainee was captured with an AK-47, bandoleer, and 3 full AK-47 magazines.
    5. When captured, the detainee had a freshly-fired AK-47 in his possession, as well as 3 loaded magazines, a vest, and was wearing an OD green jacket.
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 43

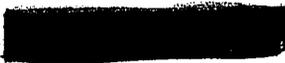
R-1

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 01 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #972.

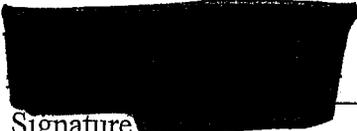
I have no comments.

My comments are attached.

LCDR  USN

Name

01 DEC 04  
Date

  
Signature

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABDULLAH WAZIR, )  
)  
)  
Petitioner, )  
)  
v. ) Civil Action No. 05-2367 (RWR)  
)  
GEORGE W. BUSH, *et al.*, )  
)  
Respondents. )  
\_\_\_\_\_ )

**DECLARATION OF DAVID N. COOPER**

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdullah Wazir 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: 781

27 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 976

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 # 976 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~~

4380

21 Jan 05

## MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 976

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

Encl: (1) Appointing Order for Tribunal # 12 of 29 September 2004  
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of and actively participated in the Tribunal process. The detainee provided a sworn statement at the Tribunal hearing.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-5, R-8, and R-15 was redacted. The FBI properly certified in exhibits R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested nine witnesses. Eight of the requested witnesses were from Afghanistan. The request for these witnesses was submitted to the U.S. Department of State and forwarded to the Afghanistan government. The Afghanistan government failed to respond. Under the circumstances, the Tribunal President determined that the witnesses were unavailable. In my opinion, this was not an abuse of discretion. No corrective action is needed.

Notably, the Tribunal President did not make a relevance determination. Enclosure (1) of the Tribunal Decision Report erroneously states that the detainee proffered that the witness would testify that the detainee was a respected merchant. While it is possible to glean from the detainee's proffer that the witnesses would confirm that the detainee was a respected merchant, the detainee actually proffered that the witnesses, having first-hand knowledge of the detainee's his time in Afghanistan, could refute the allegations against

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 976

him. Based on this proffer, the witnesses were clearly relevant. Nevertheless, the non-responsiveness of the Afghanistan government renders moot any issue of relevance.

The detainee also requested that another detainee be produced. Due to camp policy at the time, the Tribunal advised the detainee that this witness was not reasonably available. The detainee withdrew his request. Thereafter, the detainee was advised that the policy had been revised and that his request would be reconsidered. However, the detainee stated he no longer desired to have the witness testify and the request remained withdrawn.

The detainee did not request any other witnesses or evidence.

e. The Tribunal's decision that detainee # 976 is properly classified as an enemy combatant was unanimous.

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



BREE A. ERMENTROUT  
CDR, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

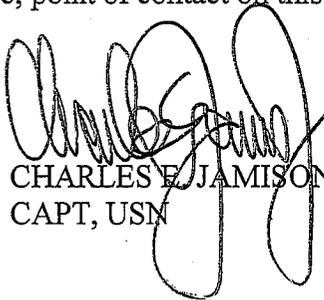
7 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 976

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

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



CHARLES E. JAMISON  
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL:   #12  

(U) ISN#:   976  

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

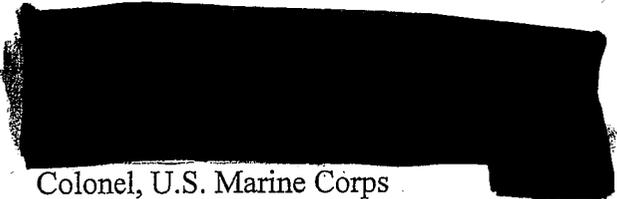
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U/~~FOUO~~)  
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)  
(3) (U) Summary of Detainee Testimony (U/~~FOUO~~)  
(4) (U) Copies of Documentary Evidence Presented (S/NF)  
(5) (U) Personal Representative's Record Review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

1. (U) This Tribunal was convened on 22 November 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).

2. (U) On 22 November 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee #976 is properly designated as an enemy combatant, as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Taliban and al Qaida forces, as well as with 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. Marine Corps  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL:           #12            
ISN #:           976          

**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 was part of, or supporting, Taliban and al Qaida forces, as well as 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 22 November 2004. The Recorder presented Exhibits R-1 through R-3 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), alleged, among other things, that the Detainee is a member of, or associated with, al Qaida and the Taliban. The Detainee associated with a known al Qaida cell leader and explosives expert and was apprehended on 13 August 2002, without papers, with that individual. Additionally, he was apprehended with a satellite cell phone and a large amount of Pakistani and Afghan Rupees. The Detainee received AK-47 training and was identified as a member of the Taliban and was seen working in the Kandahar military district office while carrying a handgun. The Detainee has expressed pro-Taliban views.

The Detainee chose to participate in the Tribunal process and made a sworn verbal statement. The Detainee refuted all of the allegations, asserted that he was a well-known and respected merchant, and denied that he belong to any groups. He explained that he never used or owned an AK-47 and that he was far from Kandahar, Afghanistan, owing to the fact that he lives in Khost (he later explained during Tribunal panel questioning that he lived in Khost province vice the city of Khost). He explained that while traveling to Bannu, Pakistan, to buy inventory (automotive tires and batteries) for his store in Afghanistan, he met a man named Karim. He knew Karim from a 3-day religious retreat that they had both participated in five years prior. He stated that he didn't know much about Karim's background. The Detainee did not think having a cell phone was unusual and stated it was for business purposes.

### 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-22.
- b. Testimony of the following Tribunal-approved witnesses: None.
- c. Statement of the Detainee: See Enclosure (3) to the CSRT Decision Report.

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

The Detainee made a request for eight witnesses located in Afghanistan and one other witness who was a detainee.

Based upon a then-existing policy, the Detainee was initially advised that the detainee witness was not reasonably available. Thereafter, on 18 November 2004, the Detainee withdrew his in-camp witness request. The policy at issue was subsequently revised. The Detainee was advised that the request for the Detainee witness would be reconsidered if he so desired, but the Detainee maintained that he no longer desired the witness and that the request remained withdrawn.

The request for the eight Afghani witnesses was submitted to the U.S. Department of State, who forwarded it to the Embassy of Afghanistan. Thirty days having lapsed from the time the request was submitted without any word from the government of Afghanistan, the Tribunal President ruled that the witnesses were not reasonably available, and so the request was denied. During the hearing, the Detainee was asked to make a proffer on what the witnesses would testify to, were they to address the Tribunal. The Detainee indicated that they would inform the Tribunal that he was a respected merchant. The Tribunal accepted that the witnesses would testify as the Detainee maintained.

The Detainee requested no documentary evidence to be produced.

### 5. Discussion of Unclassified Evidence

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

- a. The Recorder offered Exhibit R-1 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this 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. The Recorder also offered Exhibits R-2 and R-3 into evidence during the unclassified portion of the proceeding. Both exhibits are requests for redaction

from the Federal Bureau of Investigation office at Guantanamo Bay. These exhibits provided no useful information. 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.

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 CSRT 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.

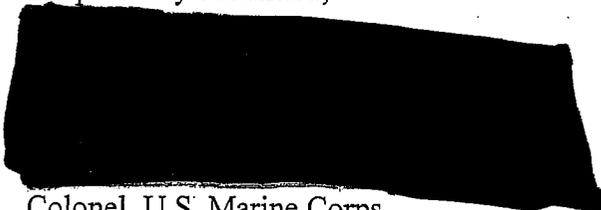
b. The Detainee understood and actively participated in the Tribunal proceedings. The Tribunal President satisfactorily answered all of his questions.

c. The Detainee is properly classified as an enemy combatant because he was part of, or supporting, Taliban and al Qaida forces, as well as 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. Marine Corps  
Tribunal President

**Summarized Sworn Detainee Statement**

*The Tribunal President was explaining the hearing instructions to the Detainee. The Tribunal President asked the Detainee if he had any questions about the Tribunal process.*

Detainee: I have a question.

Tribunal President: Any questions concerning what is going to happen in this Tribunal and the process that you will be involved with here today?

Detainee: I talked to my Personal Representative previously, and I had a request for a witness. I gave a name for my witness and he told me it takes a month to get a response back. Two days ago, I talked to my Personal Representative, and he told me again that he did not get a response back for my witness. Then he asked me if I wanted to go to the Tribunal without the witness or without the response for the witness. I told my Personal Representative, that I did not want to go to the Tribunal before he got a response for my witness. What kind of tribunal is this, when you don't know anything about me? It's been more than a month and I still have not gotten a response from the witness. The names that I gave for my witnesses; they are very easy to find. They are all available, they all are in the bazaar, and they all have a shop, so it is not hard to find them. How do you make a determination in the Tribunal without knowing me or what kind of person I am or who I am?

Tribunal President: OK, let me explain the process. We the Tribunal, the three of us, have come here with an open mind, we know very little except your name. We know very little about you. The Recorder on behalf of the United States government will present unclassified evidence. You with the assistance of your Personal Representative will present information or make statements on your own behalf. If witnesses that you requested were relevant and reasonably available, then they would be produced today. In camp witnesses, we can work those logistics here on the island. For request for off-island witnesses, we have to work through the United States State Department. The State Department contacts that embassy of the particular country and that particular country has the request and will work the request and get the information back to the United States State Department. Some countries have responded; some countries are unable to locate requested witnesses. After all unclassified evidence is presented to this Tribunal, then we close the open session of the Tribunal hearing. We then convene a closed session, in the absence of the Detainee. Due to national security reasons, the Detainee cannot be present when classified information is presented as evidence. After we have reviewed all of the evidence, the unclassified evidence, the classified evidence, and have heard your statement and any other witness statements or affidavits, then we make a determination as to whether or not you have been properly classified as an enemy combatant. Then we send our decision in a final report to the convening authority in Washington, DC. After the convening authority approves our decision, you will be notified of the results of that decision. We estimate that you will be notified of the results

between 30 and 60 days from today. I will explain more later on as we progress but basically if our decision is determined that you are not an enemy combatant you will be released to your home country. But if we confirm your status as an enemy combatant, then you will be eligible for an Administrative Review Board hearing at a future date and I will explain the make-up of that board. Does that give you a better understanding of the process today?

Detainee: Because the accusations they have on me, it is important for the witnesses to be here. I believe it will help me.

Tribunal President: I will address the witness availability here later on, but basically the witnesses that you have requested are not reasonably available. Did you request any in-camp witnesses? And they withdrew that?

Personal Representative: Yes sir, his concern is with as he stated in our follow up interview, the eight out of camp witnesses.

Tribunal President: We made an effort; go ahead. (Directing the translator to translate what the Personal Representative had stated to the Detainee).

Detainee: The person that is in camp only know about one of the five accusations that is charged against me. He did not know anything that could help on the other accusations. I wanted to contact the witnesses in Afghanistan because they would know about all the other allegations.

Tribunal President: I understand. and that is why I approved and determined that the witness request would be relevant. And we made the effort through the State Department, contacting the Afghanistan government but unfortunately, the Afghanistan government is either unable to locate the witnesses or has chosen not to respond to our request. And your Tribunal is scheduled for today and I will not be delayed any longer. We do have the authority that should the affidavits from those requested witnesses come in after we have convened this Tribunal, then we'll take those affidavits and reopen this Tribunal with your presence. But today we will continue with all of the information that we have at this time. Do you have any other questions at this time?

Detainee: No. Go ahead and begin.

Tribunal President: Thank you very much.

*The Tribunal President continued explaining the hearing instructions to the Detainee.*

Detainee: I did not understand the last question about the documents.

Tribunal President: That there was no request by you to produce any documents of evidence on your behalf. Documents would be like passports or birth certificates or good conduct certificates.

Detainee: In Afghanistan at that time I was there, the government was not stable and there was no birth certificates, no passports, there were no documents for me to produce.

Tribunal President: And that is what I was indicating that you had made no request for any type of documents like that.

Detainee: My Personal Representative did not ask me about that.

Tribunal President: Personal Representative, would you like to add to that statement?

Personal Representative: Yes sir. (Talking to Detainee) You may not recall, but during our interview we followed a checklist. And in that we asked about witnesses or documentary evidence. We talked about the money that you had on you when you were apprehended, and that you had no passport or papers on you. I remember this conversation because you asked if you would receive, because you had been in here for three years, interest on the money that was taken from you. I did follow up on that request to find out if interest would be provided. And I was told by Detainee property that no, Detainees would only have returned what items they had on them when they arrived. I then scheduled a meeting where I relayed that information with Abdullah. If it wasn't clear during the interview about you being able to have documentary evidence, I apologize for that but we did discuss it.

Detainee: It was a question that you were asking me. The question was when I was captured at the time of the apprehension, if I had any documents with me? But we did not have a passport as a document.

Tribunal President: OK. Just so that you understand, we are not going to hold that against you because you don't have any documents to produce. We just want to make it clear, if you requested any documents, we would make every effort to produce those for today, if they were available. For instance, if the money or whatever you had in your possession when you were captured, if you wanted them here today then we would try them available. We certainly will not hold it against you because you don't have any witnesses or there was no response from the Afghanistan government on helping us produce witnesses for you today. We will take only what we have and what we receive here today into consideration, for instance like you statement and any evidence is before us. Would you like to make your statement under oath?

Detainee: What kind of oath?

Tribunal President: We have a Muslim oath that we are prepared to administer if you would like.

Detainee: What about the oath; about what?

Tribunal President: The Muslim oath, when you are promising to tell the truth.

Detainee: Yes. I will.

**Summarized Sworn Detainee Statement**

*The Personal Representative addressed issues in the Summary of Evidence, as was discussed while assisting the Detainee in preparation for the Tribunal.*

Personal Representative: When we read the unclassified evidence, he initially and still disputes all of the items on here and has explanations for them. As he stated, he is a well known, and respected shopkeeper in Afghanistan.

- **3(a) The Detainee is a member of, or associated with, al Qaida and the Taliban.**

I am not a member or associated with al Qaida or the Taliban.

- **3(a)(1) The Detainee associates with a known al Qaida cell leader and explosives expert.**

I did not associate with a known al Qaida cell leader.

- **3(a)(2) The Detainee received AK-47 training.**

I have never fired, owned or used an AK-47 or any other weapon.

- **3(a)(3) The Detainee was identified as a member of the Taliban and was seen working in the Kandahar military district office while carrying a handgun.**

Kandahar is very far away from my shop is in Khost, Afghanistan. I was constantly at work around the clock. I could not go down to Kandahar, as it is a one-day travel.

- **3(a)(4) The Detainee has expressed pro-Taliban views.**

I did missionary work every few months for about one or two days. The Taliban did not like missionaries.

- **3(a)(5) The Detainee was apprehended on 13 August 2002 without papers while riding a bus into Pakistan with a known al Qaida cell leader and explosives expert. Additionally, he was apprehended with a satellite cell phone and a large amount of Pakistani and Afghan Rupees.**

I did not need any papers to go. I was on a flying coach bus, which carries about 20 to 25 people. I had money on me, but I am a well-known shopkeeper and was going into Pakistan to get my cell phone repaired. What is a big deal about having a cell phone? A lot of people, especially shopkeepers who have some money, have cell phones or satellite phones. When I got to the checkpoint in Pakistan, someone saw my cell phone and I was told that the Pakistani police were corrupt and may try to take my money; if they knew I had money because I had a cell phone. I was sitting at the back of the bus and as I departed the bus, I slipped my cell phone in someone else's seat next to another person.

Personal Representative: Would you like to specifically respond in more details to each one of these pieces of evidence?

Detainee: Do you have any questions for me? Are you going to ask me questions?

Tribunal President: Yes. We will probably have some questions for you to clarify anything that is on our mind.

Personal Representative: (To Detainee) Is there anything based on the meeting we had, that you would like to add or emphasize to the Tribunal?

Detainee: Yes. I want to talk about it.

Personal Representative: Please.

Detainee: Do you want me to start or do you want to ask questions?

Tribunal President: Go right ahead and talk, and then we'll ask questions later.

Detainee: I have a shop in Khost. I was very young and didn't have a beard at the time I started at the shop. I was working as a shopkeeper since the age of 15 years old. That day I was going to Pakistan to buy batteries and tires for my shop.

The glass of my cell phone was broken and I was going to get it repaired when I got to Pakistan. In the province of Khost, most people have a satellite phone and do not have a regular phone. Most shopkeepers or wealthy people have a satellite phone. The regular phone is not readily available and most people have a satellite phone. For communication, they must have one.

The day I was going to buy tires for my shop and have my phone repaired, I departed from Khost and when I arrived in Pakistan, I went to another bus station to get on another bus to buy tires and batteries. There was a driver and a driver assistant. I was trying to get a bus to Bannu. I went to Bannu flying coach bus

station. When I got on the bus, Kareem was sitting on the front seat. I sat on the fourth seat.

Before I saw Kareem on the flying coach, I had not seen him in five years. We spent three days preaching together. When I saw him on the bus, I said hello to him. I asked him where was he going, ask he told me he was going to buy some things also. Then the bus took off. It was full of passengers. Before you get to Bannu, there is a bazaar called Mianwali.

At the checkpoint, they call it Kajudi project. When we got to the checkpoint, they stopped and searched the bus. The police boarded the bus and asked everybody, where you were coming from? When they asked me, I told him Khost. Then he told me to get off the bus so I could be searched. When I got off the bus and the police were busy asking the other passengers where they were coming from, I had my cell phone in my pocket and was thinking how much it cost. I spent some time in Pakistan and knew how the police were. If they saw that you had some thing or money, they would ask you for a bribe. Then I thought if they found the phone on me, they would torture me and ask for money. I slowly gave my phone to Kareem and asked him to hold it for two minutes. At the time I gave my phone to Kareem, a soldier on top of the bus saw me give the phone to Kareem. He told another soldier that I had passed something to another person. He searched Kareem and I and found the phone.

The soldier made Kareem and I get off the bus and they took us to jail. In the Pakistan jail they interrogated me. The shop people in Pakistan knew that I was going to get the materials that I needed, so I named them as witnesses. The boss of the jail told me that I would be released tomorrow. In the afternoon, they handcuffed our hands and took us somewhere else. We spent six to seven months at the place they took us.

From there, they brought me here. In here you tell me I'm Taliban, you say that I learned how to use a Kalashnikov, I had a hand gun with me, I supported the Taliban, and that I had an association with Kareem. All these accusations are in writing about me.

I was living in Khost and there were a lot of Americans in Khost at that time. If you wanted to capture me, why didn't you just come to my house in Khost and capture me there? When I was in the shop, the Americans were always walking around in the bazaar and around my shop. They could have come to my shop and arrested me there.

Now because I am a Detainee, my case and file is in your hands. You can write a lot of accusations about me. I have no choice and can do nothing about it. I told my Personal Representative, in the market where I work, it was more than one hundred shops. And those hundred shopkeepers can be my witnesses. I told my

Personal Representative he could ask all of them if they saw me with the Taliban, and if I was a member of the Taliban. If they tell him yes, then I would accept it.

Tribunal President: Does this conclude your statement?

Detainee: Yes.

Tribunal President: We may have some questions.

Detainee: Please. Go ahead.

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

Personal Representative: If I may, Sir, just a few.

**Personal Representative Questions to Detainee**

Q: Do you know where Kareem is right now?

A: You told me that he is in Camp 5 right now.

Q: Better clarification, please.

A: I'm not sure if it was you or the Personal Representative for Kareem. He came to me as a witness for Kareem.

Personal Representative: For clarification of the record, I did not tell the Detainee the location of the individual.

A: I think, but I'm not sure. I think it was Kareem's Personal Representative. He came to talk to me. Kareem wanted to use me as a witness and he told me he was in Camp 5.

Personal Representative: And also for clarification, in the notes from our sessions, you told me that an interrogator told you Kareem was in Camp 5.

A: The interrogator did not say anything about that.

Personal Representative: I'm just referring to my notes.

Q: How well did you know Kareem?

A: Before my capture, five years ago I spent three days preaching with him.

- Q: You did not know him very well?
- A: All my life I was with him for the three days of preaching.
- Q: And you withdrew him as a witness request as you said in your statement because he could only dispute only one of the pieces of evidence?
- A: Yes.
- Q: And that piece of evidence was the circumstances of your capture?
- A: Yes.
- Q: When you got on the bus, was Kareem already on the bus?
- A: Yes.
- Q: Did you get on the bus at a different stop?
- A: The bus was at the station. The assistant of the driver was telling the passengers that this bus was going to Bannu. I went to the bus and Kareem was already on the bus.
- Q: Are you required to have a passport in order to go into Pakistan?
- A: At the time I was going to Pakistan, there was no stable government, and there was not passports allowed or even ID cards allowed.
- Q: You didn't need a passport, you didn't need an ID card, and you didn't need a visa?
- A: At the time I was going to Pakistan, it was common that everybody was going without their passports, without their visas and without their ID cards.

**Tribunal Members' Questions to Detainee**

- Q: We appreciate the opportunity to speak to you today, so we can try to better understand what happened here. Did you say earlier that you had only known Kareem only three days in your whole life?
- A: Yes. Five years prior to my capture, we went together for preaching for three days.
- Q: Is this the person the US government says is an al Qaida cell leader and explosive expert?

- A: The time that I knew him, I only knew him as a preacher. At that time there was no al Qaida or leader of al Qaida.
- Q: It sounds like that he could be associated with them and you would not have any way of knowing that.
- A: When we go for missionary work and preaching, we are not allowed to talk about other things. We are there to read the Koran, taught how to read the Koran, how to pray and how to wash your body. These are the things that were being concentrated on during our preaching.
- Q: We do not know anything about Kareem other than what you are telling us today. All we know is that you have known him for a short time and that you were with him on this religious retreat. You said earlier that the Taliban didn't approve of you doing missionary work?
- A: No.
- Q: I thought the Taliban was very forceful in it's thoughts on Islamic matters. Why wouldn't they want you to do missionary work?
- A: The reason the Taliban did not like you doing missionary work was because they always wanted people to fight for them and they were asking us to fight. You get in the fight and go to the battle but we did not want to do that and that is the reason they did not like the missionary work.
- Q: Do you have any idea who may have said that you said things that were favorable about the Taliban?
- A: I didn't spend any time with the Taliban and I don't have a lot of information about them because I was busy with my shop.
- Q: Do you have enemies that tried to stay these things about you?
- A: As far as I know, I don't have any enemies.
- Q: No business competitors that might try to get you out of the way so that they could take all of your business?
- A: From an outside view they were all good with me and I could call none of them as an enemy, but I don't know from their hearts and what was inside their hearts for me.
- Q: Besides being a shopkeeper was there any other way that you supported yourself?

A: No.

Q: You have done this ever since you were a younger man until right before you came here?

A: Yes.

Q: How many years approximately was that?

A: Almost ten years.

Q: Do you have a family that you support back home?

A: Yes.

Q: Was there anything particular special or distinctive about your cell phone or was it just an ordinary satellite phone that many people carried?

A: When I was in Khost, the cell phone was very common. It was an ordinary phone and everyone had it. Having a phone in Khost was like you drink water in here, everybody had it. Wealthy people had them.

Q: You said the reason you had the money with you was to buy supplies for your shop in Pakistan?

A: Yes. It was for buying a supply of tires and batteries.

Q: While you were running your shop, have the Taliban people ever bothered you or harassed you or tried to get you to do things for them?

A: No. They did not ask me to go with them or ask for anything else. Sometimes we were busy doing shopping and putting in our shop and selling supplies and we did not pray because we were busy and they would come and beat us up a little asking why we were not going to the mosque to pray?

Q: During the time of the war, did that affect you and your business?

A: Which war?

Q: Between the Taliban and the Northern Alliance most recently.

A: Khost is far from away from all these wars. It was very quiet in Khost. Khost is close to Pakistan and is far away from the Northern Alliance war.

- Q: I remembered that you said they were always trying to get people to fight for them. Did they every try to get you to do that?
- A: They were coming to the village a lot and asking for people, drafting people to come with them but they never came to my shop. They didn't ask for the shopkeepers.
- Q: Did they try to get you to pay money instead?
- A: They didn't ask about money and they didn't ask me to go with them to fight.
- Q: Were you ever required to have any kind of military training ever before?
- A: No. I never had any kind of military training. When I was a child, we were in Pakistan at that time and I was going to school there. Since we came to Afghanistan, I started a job as a shopkeeper. I was working at my shop.

**Tribunal Members' Questions to Detainee**

- Q: How much money did you have when you went to Pakistan?
- A: 70,000 Afghani rupees, 3,500 Pakistani rupees and 2,700 dollars.
- Q: You converted it for me?
- A: No. I had 2,700 dollars, 3,500 Pakistani rupees, and 70,000 Afghani rupees.
- Q: And you were going to buy batteries and tires?
- A: Yes.
- Q: What type of store do you have?
- A: It was selling tires and batteries.
- Q: Automobiles, motorbikes and things like that?
- A: It was a shop for different cars, different tires like an auto shop. Different batteries for different cars, like Datsuns, Toyotas, and trucks.
- Q: Did you have many employees working for you?
- A: My brother was working with me.
- Q: Did you make the trip to Bannu many times for supplies over the years?

A: When my supplies were getting low I would make a trip.

Q: That where you would get all your supplies, in Bannu?

A: Yes.

Q: You didn't send your brother to get the supplies?

A: Sometimes my brother would go and sometimes I would go, whenever we needed to go.

Q: Was most of your life spent in Khost?

A: No. I spent 15 years in Pakistan and the rest of my life in Afghanistan.

Q: You were in business for 10 years, you said. How long were you working at the store you were operating before you were arrested?

A: Almost nine to 10 years.

Q: How old are you?

A: In Afghanistan sometimes they don't write the exact date of birth. I'm not sure but I think I was 27.

Q: Being in business, I imagine you were pretty familiar with what was going on in the town?

A: Yes.

Q: There was a place in town referred to as Manan. Are you familiar with that place?

A: Is it a name of a person, name of a car or name of a village?

Q: Name of a village or a place.

A: No.

Q: Lezi?

A: No.

Q: Khaldan?

A: Khaldan?

Q: Were there any areas in town where there was training for military?

A: I don't know anything about that.

Q: So you are not aware of anything close to your town, Khost?

A: I don't know about whatever camps they were hiding somewhere. I don't know about that. I was going from my house, a straight street to my shop. There was nothing on this street. I was going from my house to the shop and taking this street.

Q: I was interested in knowing of anything that may have been going on around the town. Not that you were involved with it, but just whether you were aware that there were some camps in that area?

A: It's not around my village. I have not seen around our villages. I actually mentioned my village and the Americans are around Khost. So ask them if they see anything around my village; any camp.

**Tribunal President's Questions to Detainee**

Q: I have only one question. You seem to have gotten into business at a very young age of 15?

A: Yes.

Q: How was it that you were able to get into business, you and your brother?

A: It was inherited from my father. My father use to be a shopkeeper also and he was training us. It was my father's shop.

Tribunal President: We want to thank you for your testimony today.

Detainee: Please consider and get the responses from the witnesses and you can find out about me. I'm sure the witnesses can help in my case. There will be clarification about me being a shopkeeper and I've been here almost three years in jail. It's not fair, it's oppressive.

Tribunal President: I understand. I think we may have one more question.

**Tribunal Members' Questions to Detainee**

Q: If any of the witnesses had been able to come here or had written something for you, what would you have expected them to say?

A: They will tell the truth what ever they saw. They know me, and they would tell the truth about me. The people I provided as my witnesses are not my relatives and I don't have any contact with them. I'm in jail and don't have any contact or conversations with them. But I listed them as witnesses because they will tell you that they saw me in the shop, they didn't see me with the Taliban and they didn't see any of them with me. They will just clarify me job, my position.

Q: Thank you. One more question. Is your brother running the shop now?

A: Yes.

Q: Have you been able to correspond with your brother at all? Through letters?

A: Yes.

Q: When was the last time you heard from your brother?

A: Three to four months ago. I received a letter from my brother through the Red Cross but it's been eight months ago since I received it.

Q: Have you sent him letters?

A: I sent him a letter but I did not get any response. I sent a lot of letters since I have been here and only received two letters from there. Some of the letters are not clear and things are crossed out and not very clear.

Tribunal Member: Thank you, no more questions.

Tribunal President: I think the Personal Representative has another question.

**Personal Representative Questions to Detainee**

Q: Yes sir, I would like to make a clarification about the dollar figures that he had on him while he was traveling. Did you ever have any US dollars?

A: Yes.

Q: Sir (to the Tribunal President). That was to clarify what was in my notes because we only talked about the Afghani money and the Pakistani money and not US dollars. So I wanted to clarify that. (To Detainee): How often did you travel a year on average to go and pick up supplies?

A: It depended on business. If the business sold more tires or other supplies we would go sooner and buy more supplies. Sometimes we didn't sell many supplies and we would not have to go.

Q: Did you always take that flying coach bus to go pick up your supplies?

A: Actually, these are the city buses. The buses are used on a regular basis.

Q: But is this the way you always went to pick up your supplies?

A: Yes.

Q: Did you own a car?

A: No. I was always going places using the flying coach.

Personal Representative: Thank you, sir.

Tribunal President: I would like to follow up on that train of thought a little more now that you have brought it up.

**Tribunal President's Questions to Detainee**

Q: I would suppose that you had your supply products delivered to your store in Khost?

A: No.

Q: You would take back the supplies by yourself?

A: Yes. Sometimes, I would go and sometimes my brother would go.

Q: How, if you were traveling by bus, how would you carry those supplies back?

A: Actually, it worked like that. I would go buy the supplies and I would give them the money and I would get a receipt. I would come back by myself. Actually, the place would pile everyone's supplies on a truck and they would bring you the supplies.

Q: They delivered it to your shop?

- A: Yes.
- Q: Now, are you familiar with the events that happened on September 11, 2001?
- A: Which events?
- Q: The events where the United States was attacked in New York, in Pennsylvania and in Washington, DC?
- A: Yes, I read it in the newspaper.
- Q: After that time and after the Americans began their presence in Afghanistan, how many times did you travel back and forth across the border to get new supplies for your business?
- A: Actually, when the Americans came to Afghanistan, it was like being in prison for three months because they wanted to make sure all the Taliban were gone and the security came. So we were waiting for security and peace. So for three months I moved everything from my shop and I put it in my house and after three months I moved all the supplies back to my shop and restarted my positions as a shopkeeper.
- Q: So you were captured in August 2002 in Bannu, Pakistan, is that correct?
- A: Yes.
- Q: We here stories from other Detainees, when they attempt to cross from Afghanistan to Pakistan, that's when they were arrested by the Pakistani border patrol, guards and Pakistani police. How is it that after the United States was driving out the Taliban in Afghanistan were you able to so easily to go back and forth across the border to get supplies in Bannu for your business in Khost?
- A: First of all, the Detainees from Afghanistan captured by the Pakistan police were all speaking for their party and will not answer any questions. My relatives and I are from Gardez and that is really close to the border of Pakistan. Whenever people are going from Gardez into Pakistan, they have a relationship with them and will not say anything to them.
- Q: I thought you were from Khost? I thought your business was in Khost?
- A: Khost is a province in the name of the bazaar, but Khost has villages and I'm living in one of these villages.
- Q: OK. Did you have to payoff the Pakistani border guards to get free access, because you didn't have a passport, right?

A: No. They never took any money from me.

Q: You were never robbed at anytime? Never had any trouble carrying so much money on any of your trips going across the border?

A: No.

Q: You always traveled by yourself?

A: Yes.

Q: Do you have anything else about your story or may have to add to what you've told us to this point in reference to the unclassified summary of evidence?

A: I told my story. I told whatever that happened to me and now it is your time and your job to find out and investigate. It's been three years. The money I had with me it was for business purposes and I was using it to make money out of it. How about that money, it is not in the business now. The money is not being used. How about the interest? How about the money I had?

Tribunal President: I don't have authority over any of your property. All we are here today is to address whether you have been properly classified as an enemy combatant. After that, someone else will deal with the process or the circumstances that our decision present.

Detainee: Can you talk to them about that?

Tribunal President: I'm sure that you discussed this with the Detainee control folks and that's whom you need to talk to about that.

Detainee: Is someone else going to see me about that?

Tribunal President: Yes, your interrogators. What have they told you when you asked about it?

Detainee: The two interrogators, I ask about that and they would talk to me and have a response, but I have not seen it yet.

Personal Representative: Sir (to the Tribunal President), please also note that I did check into from the Detainee property and the Detainee property people said they do not get interest on their money and is something that would have to be brought up should he be released or through other legal channels.

Detainee: Why?

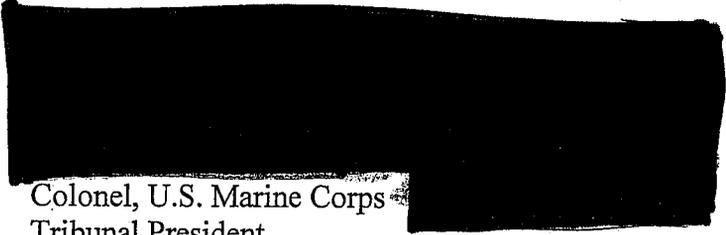
Tribunal President: Why? That's the way it is, that's why.

Detainee: That's not a good law. Somebody puts you in jail and their money is stopped without making profit for their business. If somebody is guilty, that is OK, if you catch his property and taking his money away, that is fine. But somebody who is innocent, they should get their money back with interest.

Tribunal President: You are talking to the wrong guy, because all I'm concerned about is the information here that is going to confirm your status as an enemy combatant or identify the fact that you have not been properly classified as an enemy combatant.

AUTHENTICATION

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



Colonel, U.S. Marine Corps  
Tribunal President

DETAINEE ELECTION FORMDate: 18 October 2004 (Initial)Start Time: 1430 hrsEnd Time: 1630 hrsISN#: 0976Personal Representative: [REDACTED] MAJOR, USAF  
(Name/Rank)Translator Required? YES Language? ARABICCSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES**Detainee Election:**

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

**Personal Representative Comments:**

Detainee desires to participate in the Tribunal. Detainee will address the Tribunal himself and will respond to Tribunal questions. Detainee had 1 detainee witnesses and a number of non-detainee witnesses (8) who have first hand knowledge of his time in Afghanistan and can help refute the evidence against him. (NOTE: On 18 Nov 04, detainee withdrew his in-camp witness request. Detainee had been previously informed that the witness was "not reasonably available" (Camp 5 detainee). However, the recent policy clarification that approval for cross-camp witnesses would be on a case-by-case basis prompted this follow-up interview. Purpose of interview was to provide a status update on the non-detainee witness request and to get specifics on expected witness testimony from the Camp 5 detainee. However, detainee withdrew his in-camp requests and was told that we have not yet received any statements from Afghanistan.)

[REDACTED]  
Personal Representative:

Exhibit: D-a
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UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (30 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – WAZIR, Abdullah.

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

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

3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is associated with al Qaida and the Taliban.

a. The detainee is a member of, or associated with, al Qaida and the Taliban:

1. The detainee associates with a known al Qaida cell leader and explosives expert.

2. The detainee received AK-47 training.

3. The detainee was identified as a member of the Taliban and was seen working in the Kandahar military district office while carrying a hand gun.

4. The detainee has expressed pro-Taliban views.

5. The detainee was apprehended on 13 August 2002 without papers while riding a bus into Pakistan with a known al Qaida cell leader and explosives expert. Additionally, he was apprehended with a satellite cell phone and a large amount of Pakistani and Afghan Rupees.

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 4408 - /

## Memorandum



To : Department of Defense Date 10/08/2004  
 Office of Administrative Review  
 for Detained Enemy Combatants  
 Col. David Taylor, OIC, CSRT

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

Subject REQUEST FOR REDACTION OF  
 NATIONAL SECURITY INFORMATION  
 [REDACTED]

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

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

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

The following documents relative to ISN 976 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 03/24/2003

FD-302 dated 05/28/2003 (resend, previously provided on 9/14/04)

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

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

1052

UNCLASSIFIED

4409  
 Exhibit R-2

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 10/08/2004

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

[REDACTED]  
Intelligence Analyst

2 of 2-

4410

UNCLASSIFIED

## Memorandum



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

From : FBI GTMO  
 Counterterrorism Division  
 OSC [REDACTED] 9/14/04

Subject REQUEST FOR REDACTION OF  
 NATIONAL SECURITY INFORMATION  
 [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein 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 976 have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 05/02/2003  
 FD-302 dated 05/28/2003

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

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

UNCLASSIFIED

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

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

204-2-

UNCLASSIFIED

4412

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 01 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #976.

 I have no comments.

My comments are attached.

 Major, USAF

\_\_\_\_\_  
Name

1 DEC 04  
Date

  
Signature