UNCLASSIFIED/FOUD



DEPARTMENT OF DEFENSE DEPUTY COMMANDER - DETAINEE OPERATIONS JOINT TASK FORCE 435 APO AE 09354



JTF-435-LO

.114

MEMORANDUM FOR Commander, Task Force Protector, Bagram Airfield, Afghanistan, APO AE 09354

SUBJECT: 7 June 2010 Detainee Review Board (DRB) Recommendation for Continued Internment Approval for ISN 4185

1. I reviewed the findings and recommendation of the DRB conducted on 7 June 2010 concerning the internment of Detainee ISN 4185. By a vote of 3 to 0, the board members found that internment is necessary to mitigate the threat ISN 4185 poses. After consideration, I approve the DRB's finding and direct that ISN 4185 continue to be detained at the Detention Facility in Parwan.

2. The DRB's recommendation that ISN 4185 not be assessed as an Enduring Security Threat is approved.

3. The point of contact for this memorandum is CAPT^{(b)(3), 10 USC 130b; (b)(6)}, Director of Legal Operations, JTF 435, at DSN(b)(2)

MARK S. MARTINS Brigadier General, U.S. Army Deputy Commander

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REPLY TO ATTENTION OF: DEPARTMENT OF DEFENSE JOINT TASK FORCE 435 APO AE 09354



7 June 2010

MEMORANDUM FOR Deputy Commander, Joint Task Force 435, Kabul, Afghanistan, APO AF 09356

SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Continued Internment of Dost Mohammad (ISN 4185)

1. The Detainee Review Board (DRB) met on 7 June 2010 and made the following findings and recommendations concerning the intermnent of Dost Mohammad (ISN 4185):

a. Dost Mohammad (ISN 4185) does meet the criteria for internment.

b. Dost Mohammad (ISN 4185) should be interned to mitigate the threat he poses.

c. Dost Mohammad (ISN 4185) should be considered for Reintegration programs within the Detention Facility in Parwan.

d. Dost Mohammad (ISN 4185) is not Enduring Security Threat.

2. In arriving at its recommendation, the DRB found to a preponderance of the evidence that Dost Mohammad (ISN 4185) directly supported hostilities in aid of enemy forces. ^{(b)(1); (b)(2); (b)(5)}

3. (b)(1); (b)(2); (b)(5)

captured Dost Mohammad (ISN 4185)(b)(1); (b)(2); (b)(5)

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4. The capture and subsequent detention of Dost Mohammad (ISN 4185) is based on the above (b)(1); (b)(2); (b)(5)

5. During his 7 June 2010 DRB, Dost Mohammad (ISN 4185) said he was captured with two items, a watch and beads, five hours away from his home. He did have a gun for bird hunting. He went to Khandahar to look for work. He says he was captured while sleeping. ^{(b)(1); (b)(2); (b)(2); (b)(6)} a distant relative. He was wearing freshly washed new clothes the night he was captured. He did not see, smell, or carry any explosive materials(b)(1); (b)(2); (b)(5); (b)(6)

does not know him well or if he would vouch for him. Dost Mohammad (ISN 4185) did not recognize the radio on page 4 of the Unclassified Exhibits. He hasn't seen people in his village using ICOM radios. Dost Mohammad (ISN 4185) had never seen the items on page 8. He did not recognize the phones on page 9. He has heard of (b)(6) He does not know (b)(6) or (b)(6) or (b)(6) He denied being member of Taliban or any anti-Coalition group. He likes Coalition Forces, who have treated him well while detained. He hunts birds with a net, not TNT. When confronted with being captured with 19 blocks of TNT and TNT being found on his clothes, Dost Mohammad (ISN 4185) said he was captured with nothing.

6. In making its recommendation the DRB considered the Recorder's unclassified and classified exhibits -(b)(1); (b)(2); (b)(5)

- the 23 April 2010 Detainee Criminal Investigation Detachment Report of Investigation, and the Theater Internment Facility Progress Report. The Personal Representative submitted copies of Dost Mohammad's (ISN 4185) Initial Interview Checklist and Notification Worksheet and a letter from Dost Mohammad's brother (b)(6) , signed and verified by the Sangin District Chief, Helmand NDS, Chief of Police of Sangin, and Governor of Helmand. The DRB considered also Dost Mohammad's (ISN 4185) testimony, as well as his responses to questions posed to him by all parties to the DRB.

7. The Personal Representative called the following witnesses, all of whom testified in the open session and in presence of Dost Mohammad (ISN 4185):

a. (b)(6), brother of Dost Mohammad (ISN 4185), testified that his brother is sick. He said his brother did not use a gun before his capture, but he did use a gun to hunt birds. He said his brother's medication would make him sleepy and forgetful. At times his "head problems" would arise and the family would not listen to him. There are Taliban in the area. The villagers do not open their doors at night for fear of the Taliban because the village is too small to defend itself against the Taliban. If released, (b)(6) would report his brother

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to the government if he did something wrong. He says his brother was staying with their cousin Ahkmadullah when captured. (Dost Mohammad (ISN 4185) interjected that his brother knows nothing about him.)

b. (b)(6) testified that Dost Mohammad(ISN 4185) is from his village. He knows that Dost Mohammad shoots birds with a gun. He says that five of his sons were beaten by Taliban so badly that they may not be able to father children. He says his area is caught in the fighting between Coalition Forces and Taliban. He says Dost Mohammad(ISN 4185) does take medication but he does not know its effects. Dost Mohammad (ISN 4185) is not Taliban and does not have Taliban ties. He will help Dost Mohammad(ISN 4185) reintegrate if released.

8. In determining whether continued internment is necessary to mitigate the threat Dost Mohammad (ISN 4185) may pose, the DRB assessed his level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. The DRB considered also (b)(1); (b)(2); (b)(5)

assessing him with a recidivism risk of three and a COIN amenability rating of Green. Based upon all the presented evidence, the DRB found to a preponderance of the evidence that Dost Mohammad meets the criteria for internment. Therefore, the DRB found that Dost Mohammad (ISN 4139) does meet the criteria for internment and should be interned at the DFIP to mitigate his threat.

9. The point of contact for this review is Capt^{(b)(3), 10 USC 130b; (b)(6)}. Joint Task Force 435 at DSN (b)(2) or (b)(2); (b)(3), 10 USC 130b; (b)(6).

(b)(3), 10 USC 130b; (b)(6)

2 Encls.

1. DRB Voting Packet

2. Summarized Testimony with Exhibits

MAJ, IN President, Detainee Review Board

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Detainee Review Board Report of Findings and Recommendations - Final Board Result v.22 Feb 2010

Date of Board Detainee Name	(b)(2)	-300	neme
Time O OSF Manad STEP I (FINDINGS): By a preponderance of the information presented, as a member of the			
The detainee DOES NOT MEET THE CRITERIA for internment and will be released. Stop	n here and sign at th	ie hattam	
ÖR			
The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a perso	on who planned, aut	norized, ed	mmitted, or aided
the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsit	ble for those attacks:	(Continu	e to Step 2) <u>OR</u>
The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a perso Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United Stat who has committed a belligerent act, or has directly supported hostilities, in aid of such enenty armo	es or its coalition pa	rtners, line	luding any person
STEP 2 (THREAT ASSESSMENT RECOMMENDATION): After taking into account the detainee's potential for rehabilitation, reconciliation, and eventual reintegration into society, by a preponderance of the information, I find that <u>continued internment</u> :	(b)(1);	(b)(5)
IS NOT NECESSARY to mitigate the threat the detainee poses; (Go to Step 3A)		-	
ÖR			
IS NECESSARY to mitigate the threat the detainee poses (* the detainee will remain at the Detention Facility in Parwan (DFIP) to ensure detention required to mitigate his threat) (Go to Step 3B;			
Explain the facts presented at the DRB which led to your recommendation/	\$		
(Mandatory regardless of which threat assessment is made):			
			an a
			na n
STEP 3A: If your Recommendation in STEP 2 is that continued internment is not necessary then make one of the following recommendations: In light of the findings listed above, I reco	to mitigate the thr mmend that the de	eat the De tainee be	falnee poses, (PICK ONLY 1):
Released without conditions: or	1	ه.	
Transferred to Afghan authorities for their consideration of criminal prosecution.			`
Transferred to Afghan authorities for participation in a reconciliation or reintegration pro	eram.		
	-		
(For non-Afghan and non-U.S. third-country national): <u>Transferred to a third country</u> criminal prosecution // participation in a reconciliation program // or telease. (circle			
			· ·
STEP 3B: If your Recommendation in STEP 2 is that continued internment is necessary to t the following further recommendation, and then Gu to Step 4.	nitigate the threat	the Detain	ee poses, make
 While the Detained remains interned at the DFIP, he SHOULD / SHOULD NOT (circle within the DFIP) 	de one) he consider	d for Rein	degration programs
STEP 4: The Detaince is or is not an Enduring Security Threat (circle one).			
(b)(3), 10 USC 130b; (b)(6)	<u> </u>		
(b)(3), 10 USC 130b; (b)(6)			
DRB President (Signature	, ,		
1			

(S//REL TO USA, ISAF, NATO) [ISN (b)(2)-004185DP, DOST MOHAMMAD, entered the boardroom, took his s n front of the board members, and the unclassified hearing was called to order at 1535, 7 June 2010.]

(U) Persons Present:

- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), PRESIDENT OF THE BOARD;
- (U) MAJOR ^{(b)(3), 10 USC 130b; (b)(6)}, MEMBER ONE;
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER TWO;
- (U) CAPTAIN $^{(b)(3), 10 \text{ USC } 130b; (b)(6)}$, detainee review board recorder t
- (U) MAJOR ^{(b)(3), 10 USC 130b; (b)(6)}, PERSONAL REPRESENTATIVE THREE;
- (U) CAPTAIN ^{(b)(3), 10 USC 130b; (b)(6)}, LEGAL REPRESENTATIVE; and

(U) SGT ^{(b)(3), 10 USC 130b; (b)(6)}, PARALEGAL.

(U) [The recorder was sworn.]

(U) The detainee was advised by the president of how this board was not a criminal trial and how this board was to determine whether or not he met the criteria for further internment.

(U) The president also notified the detainee that he may be present at all open sessions of the board permitting that he acted appropriately. ISN 4185 was also advised that he could testify under oath or unsworn if he wished to do so, that he had a personal representative who was present at the hearing, that he may present information at the hearing including the testimony of witnesses, and that he can examine documents presented to the board all of which the detainee understood.

(U) Further, ISN 4185 was instructed that, at the conclusion of the board after the legal review, the board would determine

whether he met the criteria for further internment at the Detention Facility in Parwan. The detainee understood the fact that if he does not meet the criteria, he would be released as soon as possible. However, if he did meet the criteria, then he would be recommended for further internment, transferred to Afghan authorities, or released without conditions.

(U) **CAPTAIN** ^{(b)(3), 10 USC 130b; (b)(6)} presented the following unclassified information to the board:

(U//FOUO) Dost Mohammad was captured (b)(1); (b)(2); (b)(5)

$(U/ \neq FOUO)$ (b)(1); (b)(2); (b)(5)

(U/FOUO) (b)(1); (b)(2); (b)(5); (b)(6)

(U//FOUO) Dost Mohammad's hands tested positive for chlorate. Items attributed to the detainee tested positive for RDX, TNT, PETN, chlorate, and perchlorate residue.

(U/FOUO) (b)(1); (b)(2); (b)(5)

(U//FOUO) He meets internment criteria if he was part of, or substantially supported Taliban forces or associated forces that were engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces.

(U) The detainee, ISN 4185, made the following statements to the board:

(U/FOUO) I was in a labor job at the pomegranate orchard. (b)(1); (b)(2); (b)(5)

They captured my without any evidence, like explosive materials. I only had two items with me: my watch and my beads. I ask you to do a little hard work. Ask some people in the village. If you get some people from the village who say that I was a commander, or was with the Taliban, then I will accept those allegations.

(U//FOUO)I use to be a farmer. During pomegranate season, I picked pomegranates from the trees. There are other farmers there, if I go and sit and talk to them, it doesn't mean that I am a Taliban or that I'm involved with the Taliban. If I have hurt Coalition, American, or Afghan forces, then I am guilty. If I lie to anyone about my name, my residence, or my village, this is also proof that I am a liar. If I got caught in a raid and the target person was someone else, it is alright that you keep me in this facility. **(b)(1); (b)(2); (b)(5)**

(U//FOUG) At the time of my capture my brother told Coalition forces that we had a shotgun for hunting birds. There are six of us brothers. If they captured me with any a cell phone, or any other explosive materials, please show me, and I am guilty. If I am captured without any of these things, then I am innocent. If I didn't have I never lied to my interrogator. I wasn't captured with any of the things you describe.

(U) DETAINEE TESTIMONY

(S//REL TO USA, ISAF, NATO) DOST MOHAMMAD, $(b)(2)_{-004185DP}$, was called for the board and testified, in subs , as follows:

(U) DIRECT EXAMINATION

(U) CAPTAIN ^{(b)(3), 10 USC 130b; (b)(6)} asked, in substance, the following questions:

(U/FOUO) My name is Dost Mohammad. My father is (b)(6). I am from Saran Kalah village, Sangin district Heimand Provance. It is about a five hour drive in a small vehicle. I went there as a passenger in a vehicle. The area I started work is called Hadirah. I got the information that there was work from kinswoman, which is why I went there. I worked about five or six day and on the sixth day I was captured. I never talked to the other workers. In the morning I would go to the work site and in the evening I would go back to my room. The only person I knew was the owner of the house. I didn't know the others and they didn't know me. The owner of the house was (b)(6). I didn't even know that there were other people captured at the same time. I don't know any of the other detainees. I am not directly related to (b)(6), his mother's cousin is related to him. I dian't know (b)(6). I got the job through an intermediary, my mother's brother's son. I stayed in the same room every night that I worked for (b)(6).

(U/FOUO) I was wearing nice, freshly washed clothes, light blue in color, beads and a watch. They weren't my work clothes. I bought them recently. I used them only once. I washed them and put them on because the next day was a holiday. I have never dealt with explosives. I don't have a smoking habit. I don't cook very often. I just like to eat fruit and bread. I never saw or smelled any explosive materials. (b)(6) is one of your people. He

is a district chief in Sangin. Of course, I have heard his name, but I have not had much connection with him. Perhaps my brothers know him well. I don't know if (b)(6) would vouch for me.

(U//FOUO) I didn't use an ICOM radio while I was there. I don't recognize this radio. The only kind of radio I know is the kind where you get BBC news. There is not good cell phone reception in my area. I have not seen people using ICOM radios to communicate. I am a poor man, a worker, and that is all. I wasn't carrying any weapon on me. I don't recognize any of those weapons, or any of the telephones in the exhibits. I don't have a telephone or a telephone number. If you find a telephone number that belongs to me I will take the accusation. I don't know (b)(6). I don't have ties to any of these people. My village is too far from the work area. I don't know (b)(6), (b)(6).

(U) CROSS-EXAMINATION

(U) MAJOR (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following questions:

(U//FOUO) Usually I use a net to capture birds. My brother knows how to use the gun. I never used the gun, and it doesn't belong to me. I don't know how to load it. I take medication for mental troubles, also for pain in my head and back. I also have a urinary tract infection. When I take my medication I feel a little drossy, and I didn't notice any improvement. The other side effects are that I can't handle people speaking loudly, and the medication also impedes my memory. The doctor gave me the medicine. I'm not with the Taliban, or any other anti-coalition The coalition forces have treated me well. force. I hear rumors that they are building roads and things, but I haven't seen any difference where I live. There might be Taliban in the area I live, but I don't have any connection to them. I don't know if there are a lot of Taliban in the area I'm from.

(U) EXAMINATION BY THE BOARD

(U) Member 1 asked, in substance, the following questions:

(U//FOUO) There was no explosive residue on my clothes. If you say that my clothes tested positive, what can I say? There are no explosive materials on my clothing. I don't hunt birds with TNT, I use a net. They captured me with nothing. I swear there was nothing where I was captured. I am positive none of these allegations are true.

(U) Member 2 asked, in substance, the following questions:

(U//FOUO) Yes, I was taking medication for back pain, but there was no benefit so I stopped taking it. My back injury was not sever and didn't interfere with my work. Now, I can feel it because I am not doing anything.

(U) The President of the Board asked, in substance, the following questions:

(U/FOUO) (b)(1); (b)(2); (b)(5)

(U//FOUO) I've never made any IEDs.

(U) AFGHAN CIVILIAN WITNESS TESTIMONY

(U//FOUO) (b)(6) board, ent follows:

, Afghan, was called as a witness for the droom, and testified, in substance, as

(U) DIRECT EXAMINATION

(U) MAJOR (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following questions:

(U/FOUO) My name is (b)(6) . Dost Mohammad is my brother. Every now and then, I use the gun to hunt. I am losing my mind. I have a mental illness. That is why I take medication. Dost Mohammad is sick, too. The gun is muzzle loaded, not a regular shot gun. We work together, and sometimes, when we were in the work area, we would see some birds and shoot at them. The main side effect of the medication is it make you sleepy. It also makes you forgetful. I don't even remember what I had for lunch today. My brother was taking the same medication, along with some other kinds of medicine. I have a bunch of documents from the doctors. I heard a rumor that Coalition Forces were coming, and I thought all these documents would make them suspicious. So, I put the documents in a plastic bag and I buried them.

(U//FOUO) There aren't Taliban in my area, but there are a little ways away. I haven't seen the Taliban personally because we are busy with work, but sometimes I hear from the kids that they come and ask for bread. There was a Taliban presents in the area only one day and coalition forces came at night in the same area. When the Taliban come, we keep our doors locked. Our village is small, only three mosques. Anytime Dost Mohammad's mental problems arise, we leave him alone. He was always on the right path. If he does something wrong in the future, I will report him.

(U) CROSS-EXAMINATION

(U) CAPTAIN (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following questions:

(U//FOUO) I wasn't with my brother those five days at the Pomegranate farm. He doesn't work with explosives. I don't know why he would test positive for explosives, but I know he has no ties to the Taliban.

(U) EXAMINATION BY THE BOARD

(U) The President of the Board asked, in substance, the following questions:

(U/FOUO) I don't know (b)(6). My brother has no other gun. My brother sleeps in our cousin (b)(6) house. He didn't stay at (b)(6) house. I don't know if that was the house he was staying in when he was captured, but he was working for (b)(6).

RECROSS-EXAMINATION

(U) MAJOR (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following questions:

(U) [The witness was excused, but remained in the boardroom to view the remainder of the unclassified proceedings.]

(U) PERSONAL REPRESENTATIVE WITNESS TESTIMONY

(U//FOUO) (b)(6) board, ent follows:

, Afghan, was called as a witness for the rdroom, and testified, in substance, as

(U) DIRECT EXAMINATION

(U) MAJOR (b)(3), 10 USC 130b; (b)(6) asked, in substance, the following questions:

(U//FOUO) Thank you for this opportunity. My name is (b)(6)
. I know Dost Mohammad from my village. I've used
the gun. I have seen Dost Mohammad shoot the gun. I'm not
going to lie. Five of my sons were taken from their homes
the Taliban and beaten so severely they may not be able to
have children. I am not in favor of the Taliban. Every
now and then the Taliban pass by at night. We are in the
middle of two dangers. Taliban come at night and fire at
the Coalition Forces right from the corner of my house. I

don't have the power to ask the Taliban, why do you fire this close to my house? You are putting me in danger. The Coalition Forces will fire at my house, at us. I cannot say anything to the Taliban. They are cruel people. I know how serious the punishment will be. What should we do? We are poor people. We get threatened by Taliban and also by the coalition forces. Why don't you recruit everyone here so we can fight against the Taliban? We don't have freedom from Taliban forces or from the Coalition Forces.

(U//FOUO) Dost Mohammad is sick. His brother took him to Pakistan several times. He is not a Taliban. Dost Mohammad has a memory problem, which is why his brother takes him to Pakistan for treatment. If Dost is released I guarantee that he will never do anything wrong. He will never join the Taliban. If he does, we will report him to the Coalition Forces.

(U) CROSS-EXAMINATION

(U) CAPTAIN ^{(b)(3), 10 USC 130b; (b)(6)} asked, in substance, the following questions:

(U//FOUO) We don't use ICOM. We are illiterate people. I don't even know how to write my own name. I don't know how to use a cell phone. Dost Mohammad has never used explosives. I am not lying to the board. I just want to tell the truth.

(U) EXAMINATION BY THE BOARD

(U) The President of the Board asked, in substance, the following questions:

(U//FOUO) I live in Saran Kalah. I am not familiar with Taruk village in Arghandab district. It is too far from where I live.

(U) The witnesses request that the detainee either be released or remain here, but not be transferred to Afghan control due to

their inability to pay the bribes that would be necessary to free him.

(U) [The witnesses withdrew from the boardroom.]

(U) The recorder did offer unclassified exhibits.

(U) The personal representative did offer unclassified exhibits.

(U) The recorder had no further unclassified information to offer the board and, per the recorders request, the president granted a closed hearing at the culmination of the unclassified hearing.

(U) The president announced the conclusion of the unclassified hearing.

(U) The president of the board instructed the detainee that he would be notified of the board's decision within a couple of weeks and that he would be released if the decision is made that further internment would not be required. However, if the board decided that further internment is required, he would be retained at the Detention Facility in Parwan, transferred to Afghan authorities for participation in a reconciliation program, or released transferred to his national country for participation in a reconciliation program. Furthermore, if continued internment was recommended, then an additional Detainee Review Board would be reconvened in 6 months.

(U) The detainee made the following statement:

(U/FOUO) If you have any witness against me, bring that witness to me.

(U) [The unclassified hearing adjourned at 1715, 7 June 2010.]

(U) [The detainee withdrew from the boardroom.]

(U) [The classified hearing was called to order at 1727, 7 June 2010.]

(U) CAPTAIN $^{(b)(3), 10 \text{ USC } 130b; (b)(6)}$ presented the following information to the board

(s//NF) (b)(1); (b)(2); (b)(5)

-(s//NF)(b)(1); (b)(2); (b)(5)

(U) MAJOR (b)(3), 10 USC 130b; (b)(6) presented the following information to the boa

-(S//NF) (b)(1); (b)(2); (b)(5)

(U) The recorder did offer classified exhibits.

(U) The personal representative did not offer classified exhibits.

(U) The president and members of the board voted on ISN 4185. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1734, 7 June 2010.]

[END OF PAGE]