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REPLY TO
ATTENTION OF:

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



JTF-435-LO

JUL 1 2010

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

SUBJECT: 5 June 2010 Detainee Review Board (DRB) Recommendation Vote for Release for
ISN 3771

1. I reviewed the findings and recommendation of the DRB conducted on 5 June 2010 concerning the internment of Detainee ISN 3771. By a vote of 3 to 0, the board members found that ISN 3771 did not meet the criteria for internment. Pursuant to Deputy Secretary of Defense Policy Guidance on Review Procedures and Transfer and Release Authority at Bagram Theater Internment Facility dated 2 July 2009, I approve the DRB's finding and direct that ISN 3771 be released from the Detention Facility in Parwan.

2. 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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Bagram-CENTCOM-DRB-514



REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
LEGAL DIRECTORATE – DETAINEE OPERATIONS
US FORCES AFGHANISTAN
JOINT TASK FORCE 435
APO AE 09356



JTF-435-LO

7 June 2010

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

SUBJECT: 5 June 2010 Detainee Review Board (DRB) Recommendation, Release Without Conditions of Fazel Rahman s/o Hajji Nazar Gul, ISN 3771 (Does Not Meet Internment Criteria)

1. DRB FINDINGS AND RECOMMENDATIONS. The DRB met on 5 June 2010 and made the following findings and recommendations concerning the internment of Fazel Rahman s/o Hajji Nazar Gul, ISN 3771:

a. That Fazel Rahman, ISN 3771, did not meet criteria for initial internment because he was assessed to be a part of or a substantial supporter of insurgent forces opposing Coalition Forces.

b. That internment is not necessary to mitigate the threat posed by Fazel Rahman, ISN 3771. That Fazel Rahman, ISN 3771, should not continue to be interned at the Detention Facility in Parwan.

c. The DRB recommends approval for release without conditions of Fazel Rahman, ISN 3771, pursuant to a finding that he does not meet internment criteria.

2. DRB ASSESSMENT. Fazel Rahman, ISN 3771, is a shopkeeper who was detained^{(b)(1); (b)(2); (b)(5)}

(b)(1); (b)(2); (b)(5)

Over-all the DRB assessed that if Fazel Rahman provided any support at all to the Taliban it was most likely in the form of him standing by while they took items without payment from the store. The DRB considered this kind of support to be unwilling and under implied threat of violence.

Notably, there is some evidence that Fazel Rahman smokes hashish and supplements his income in the off season by working in opium fields. The DRB considered these habits inconsistent with the tenets of some of the puritanical types of Taliban.

Lacking any substantial support of or membership of an insurgent group, the DRB voted that Fazel Rahman, ISN 3771, does not meet internment criteria.

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3. CIRCUMSTANCES OF CAPTURE. Fazel Rahman s/o Hajji Nazar Gul, ISN 3771, was captured (b)(1); (b)(2); (b)(5)

4. BASIS FOR TARGETING AND INTERNMENT. In making its findings and recommendations, the DRB considered the following evidence:

a. Physical Evidence: Documents

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

c.

d.

e.

5. DETAINEE ADMISSIONS AND CLAIMS (PRE-DRB). In making its findings and recommendations, the DRB considered information from interrogations and interviews, including but not limited to the following:

(b)(1); (b)(2); (b)(5)

6. EXHIBITS SUBMITTED & DETAINEE TESTIMONY AT DRB. In making its findings and recommendations, the DRB considered the following exhibits and detainee testimony:

a. Recorder's Unclassified and Classified Exhibits.

b. Personal Representative's Exhibits. Exhibit A, indicating that Fazel Rahman, ISN 3771, was advised of the basis for internment and the facts supporting internment. Exhibit B, indicating that Fazel Rahman, ISN 3771, met with a personal representative and was advised of his rights at the DRB.

c. Detainee Criminal Investigative Detachment (DCID) Report of Investigation (ROI) dated 5 May 2010

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

e. Detainee's DRB Statement and Responses to Questions: Fazel Rahman, ISN 3771, knows that he is accused of having a nefarious relationship with a person named (b)(6). He said he knows three of them, a shopkeeper, a barber, and a mullah. Mullah (b)(6) is a suspected Taliban member. He lives in the same area as Mullah (b)(6). He keeps his cell phone in his shop. He only had the cell phone for about three months before capture.

He sells chai, candies, sugar, chewing gums, candy, and groceries.

(b)(1); (b)(2); (b)(5)

Fazel Rahman said that his brother and others could speak positively. They can tell the DRB what kind of person he is. When released he will try to help Americans. He likes the Americans because they build clinics, madrassas, and roads.

Fazel Rahman was forthcoming when admitting "borderline" nefarious conduct, lending a sense of credibility to his testimony generally. He discussed his DRs. He discussed his travel to Iran for work, including the use of smugglers to cross the border.

7. WITNESS INFORMATION. In making its findings and recommendations, the DRB considered the following witness information:

(b)(3), 10 USC 130b; (b)(6) DRB Analyst. (b)(1); (b)(2); (b)(5)

8. SUMMATION OF DRB FINDINGS AND RECOMMENDATIONS, THREAT ASSESSMENT. In determining whether continued internment is necessary to mitigate the threat posed by Fazel Rahman, ISN 3771, the DRB assessed DOD criteria for internment, the detainee's level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. In considering this recommendation, the DRB noted the risk posed by Fazel Rahman, ISN 3771, (b)(1); (b)(2); (b)(5)

. As a result of all of these considerations, the DRB believes that release without conditions is required for persons who do not meet internment criteria.

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9. The point of contact for this review is MAJ ^{(b)(3), 10 USC 130b; (b)(6)}, JTF-435 DRB, at DSN (b)(2) (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

COL, OM, USA
President, Detainee Review Board

<u>Date of Board</u> 5 JUN 10	<u>Detainee Name</u> Fazl Rahman s/o Hiji Nazzar Gul	<u>Detainee ISN</u> 3771
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STEP 1 (FINDINGS): By a preponderance of the information presented, as a member of the Detainee Review Board (DRB), I find that:

The detainee DOES NOT MEET THE CRITERIA for internment and will be released. Stop here and sign at the bottom.

OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks: (Continue to Step 2) OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a person who was part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are 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. (Continue to Step 2)

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 continued internment:

(b)(1); (b)(5)

IS NOT NECESSARY to mitigate the threat the detainee poses; (Go to Step 3A)

OR

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):

Fazl Rahman is a shopkeeper, detained while
of was targeting small case
Very little resistance to show TB involvement if boarding support
at all, DRB assessed TB support to be minimal
covered - Probably TB skabing for this store. Does not meet criteria

STEP 3A: If your Recommendation in STEP 2 is that continued internment is not necessary to mitigate the threat the Detainee poses, then make one of the following recommendations: In light of the findings listed above, I recommend that the detainee be (PICK ONLY 1):

- Released without conditions; or
- Transferred to Afghan authorities for their consideration of criminal prosecution.
- Transferred to Afghan authorities for participation in a reconciliation or reintegration program.
- (For non-Afghan and non-U.S. third-country national): Transferred to a third country for: criminal prosecution // participation in a reconciliation program // or release. (circle one)

STEP 3B: If your Recommendation in STEP 2 is that continued internment is necessary to mitigate the threat the Detainee poses, make the following further recommendation, and then Go to Step 4.

While the Detainee remains interned at the DFIP, he SHOULD / SHOULD NOT (circle one) be considered for Reintegration programs within the DFIP.

STEP 4: The Detainee IS or IS NOT an Enduring Security Threat (circle one).

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

DRB President (Printed) _ _

DRB President (Signature) _ _

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

~~(U//FOUO)~~ [ISN (b)(2)-003771DP, Fazel Rahman, entered the boardroom, took seat in front of the board members, and the unclassified hearing was called to order at 1935, 5 June 2010.]

(U) Persons Present:

(U) COLONEL (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 USC 130b; (b)(6), DETAINEE REVIEW BOARD
RECORDER F

(U) LIEUTENANT JUNIOR GRADE (b)(3), 10 USC 130b; (b)(6),
PERSONAL REPRESENTATIVE FO

(U) MAJOR (b)(3), 10 USC 130b; (b)(6), LEGAL REPRESENTATIVE; and

(U) TECHNICAL SERGEANT (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 3771 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 3771 was instructed that, at the conclusion of the board after the legal review, the board would determine whether he met the criteria for further ~~(U//FOUO)~~ internment at (U) 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) CPT ^{(b)(3), 10 USC 1305; (b)(1)} presented the following unclassified information to the board:

~~(U//FOUO)~~ Fazel Rahman (Capture Tag: (b)(1); (b)(2); (b)(5), ISN 3771) was captured (b)(1); (b)(2); (b)(5)

~~(U//FOUO)~~ Reporting indicates that he was in contact with Taliban Commanders and kidnappers of American citizens.

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

~~(U//FOUO)~~ He meets internment criteria if he was a part of, or substantially supported the Taliban forces or associated forces that are engaged in hostilities against the United States or its coalition forces in aid of such enemy armed forces.

(U) The detainee, ISN 3771, made the following statements to the board:

~~(U//FOUO)~~ There are three (b)(6). I gave you true information on all three. The Mullah (b)(6), I am not sure if he is involved in the Taliban or not. I've been happy since being here. If there is proof that I'm with the Taliban then show me. If there is not any proof of me being connected to the Taliban then you will release me and apologize. There is no proof that I am affiliated with the Taliban. (b)(1); (b)(2); (b)(5)

~~(U//FOUO)~~ If I was Taliban, surely CF would have found something. I

appreciate the respect I have received while here. I want to help Americans but I cannot because I'm a detainee. I have a shop and almost all the people know me and my brother and they all would have good things to say about me.

(U) DETAINEE TESTIMONY

~~(U//FOUO)~~ Fazel Rahman, (b)(2)-003771DP, was called for the board and testified, in substance as follows:

(U) DIRECT EXAMINATION

(U) CPT ^{(b)(3), 10 USC 1506; (b)(7)(C)} asked, in substance, the following questions:

(U//FOUO) My name is Fazel Rahman. My father is (b)(6). I am a shop keeper. I know Mullah (b)(6) from the village next to mine. Mullah (b)(6) is not a friend of the family. I've known Mullah (b)(6) since childhood. I only associate with Mullah (b)(6) is when he passes by and when watering or harvesting our crops.

[recorder is showing detainee exhibit 1]

~~(U//FOUO)~~ That is my phone. I have owned it for 3 months. I bought that phone from (b)(6). I do not ever talk with (b)(6). I never spoke with (b)(6) about (b)(1); (b)(2); (b)(5)

I sell food, sugar, tea, candy and other stuff at my shop. I do not sell any electronics at my shop. In fact there isn't a shop in the entire market that sells electronics. I notice the improvement in Afghanistan because of CF's presence. I'm am receiving excellent medical treatment here. I have received two DR's since being here. I was trying to tell the guard I needed to go to the Dr. and they would not take me so I spit on the guard. Yes, I through my feces at the guard. I did it because I'm a sick person. The Taliban is nothing compared to CF.

(U) CROSS-EXAMINATION

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

~~(U//FOUO)~~ I am not a member of the Taliban. I have not ever attacked CF. I have not ever helped anybody attack Taliban. I have never seen a bomb or sold components to build a bomb. If I was released I would continue to run my shop. I applied to take classes but have not gotten in yet. I've began to learn English.

(U) EXAMINATION BY THE BOARD

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

~~(U//FOUO)~~ I worked in Iran. The way I got there is I was smuggled in.

(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~~) The detainee does not wish to make a statement.

(U) [The unclassified hearing adjourned at 2007, 5 June 2010]

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

(U) [The classified hearing was called to order at 2007, 5 June 2010.]

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

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

(U) INTEL ANALYST WITNESS TESTIMONY

(U//~~FOUO~~) (b)(3), 10 USC 130b; (b)(6), Government Contractor, entered the boardr substance, as follows:

(U) DIRECT EXAMINATION

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

~~(S/NF)~~ My name is (b)(3), 10 USC 130b; (b)(6). I'm a DRB analyst. (b)(1); (b)(2); (b)(5)

(U) EXAMINATION BY THE BOARD

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

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

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

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

[The witness withdrew from the boardroom.]

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

~~(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 3771. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 2025, 5 June 2010.]

[END OF PAGE]