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DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09356

IN REPLY REFER TO:

JUL 6 2010

MEMORANDUM FOR Commander, Task Force Protector, Bagram Airfield, Afghanistan
Director, Legal Operations, Bagram Airfield, Afghanistan

SUBJECT: 7 June 2010 Detainee Review Board (DRB) Recommendation Vote for Release for ISN 4198

1. I reviewed the findings and recommendation of the DRB conducted on 7 June 2010 concerning the internment of Detainee ISN 4198. By a vote of 3 to 0, the board members found that ISN 4198 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 4198 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)

ROBERT S. HARWARD
Vice Admiral, U.S. Navy

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Bagram-CENTCOM-DRB-691

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REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09354



JTF-435-LO

7 June 2010

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

SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Release of Hzratullah
(ISN 4198)

1. The Detainee Review Board (DRB) met on 7 June 2010 and made the following findings and recommendations concerning the internment of Hzratullah (ISN 4198):

a. Hzratullah (ISN 4198) does not meet the criteria for internment.

b. Hzratullah (ISN 4198) should be considered for Reintegration programs within the Detention Facility in Parwan.

c. Hzratullah (ISN 4198) is not an Enduring Security Threat.

2. In arriving at its recommendation that Hzratullah (ISN 4198) did not meet the internment criteria, the DRB considered (b)(1); (b)(2); (b)(5)

Accordingly, the DRB found that Hzratullah (ISN 4198) did not meet internment criteria and should be released.

3. (b)(1); (b)(2); (b)(5) captured Hzratullah (ISN 4198) (b)(1); (b)(2); (b)(5)

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

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Bagram-CENTCOM-DRB-692

JTF-435-LO

SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Release of Hzzratullah (ISN 4198) (Does Not Meet Internment Criteria)

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

5. (b)(1); (b)(2); (b)(5) during his 7 June 2010 DRB, Hzzratullah (ISN 4198) stated that he was heading to (b)(1); (b)(2); (b)(5) with his friend (b)(6) to visit two friends. Hzzratullah (ISN 4198) claimed that he stopped when he was asked by (b)(1); (b)(2); (b)(5) Hzzratullah (ISN 4198) indicated that he was innocent and knew nothing about any bombs that were emplaced on roads. In addition, Hzzratullah (ISN 4198) denied (b)(1); (b)(2); (b)(5) Hzzratullah (ISN 4198) thanked the DRB for giving him the opportunity to learn how to read during his internment at the DFIP.

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

-- the 3 December 2009 Detainee Criminal Investigation Detachment Report of Investigation, and the Theater Internment Facility Progress Report. The Personal Representative submitted copies of Hzzratullah's (ISN 4198) Initial Interview Checklist and Notification Worksheet. In addition, the Personal Representative also submitted a letter from Hzzratullah's (ISN 4198) tribal elders claiming Hzzratullah's (ISN 4198) innocence. The DRB considered also Hzzratullah's (ISN 4198) testimony, as well as his responses to questions posed to him by all parties to the DRB.

7. The Personal Representative called one witness during Hzzratullah's (ISN 4198) 7 June 2010 DRB, his brother, (b)(6), who testified telephonically in the open session in Hzzratullah's (ISN 4198) presence. (b)(6) indicated that the point of capture was on the way to where Hzzratullah (ISN 4198) and (b)(6) were headed that day. (b)(6) stated that Hzzratullah (ISN 4198) was not involved with the Taliban, and that he would guarantee that Hzzratullah (ISN 4198) would not get into any trouble in the future. (b)(6) indicated that he didn't know whether Hzzratullah (ISN 4198) had a telephone. In addition to the telephonic witness, the Personal Representative provided a letter on Hzzratullah's (ISN 4198) behalf from the Yaqubi district elders and tribal leaders that proclaimed his innocence.

8. In determining whether continued internment is necessary to mitigate the threat Hzzratullah (ISN 4198) 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

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SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Release of Hzzratullah (ISN 4198) (Does Not Meet Internment Criteria)

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

In sum, based upon the evidence and testimony presented during his 7 June 2010 DRB, the DRB found that Hzzratullah (ISN 4198) did not meet internment criteria and he should be released.

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

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

2 Enclosures:

1. DRB Voting Packet

2. Summarized Testimony with Exhibits

COL, QM, USA

President, Detainee Review Board

Detainee Review Board Report of Findings and Recommendations – Final Board Result

v.22 Feb 2010

<u>Date of Board</u> 7 Jun 10	<u>Detainee Name</u> HAZRATULLAH	<u>Detainee ISN</u> (b)(2) -4198DP
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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):

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)

⁴ DRB President's Signature
(b)(3), 10 USC 130b; (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)

(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)-004198DP, Hzzratullah Lnu, entered the boardroom, took seat in front of the board members, and the unclassified hearing was called to order at 0922, 7 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 T
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), PERSONAL REPRESENTATIVE TWO;
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), LEGAL ADVISOR; and
- (U) STAFF SERGEANT (b)(3), 10 USC 130b; (b)(6), COURT REPORTER.

(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 4198 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 4198 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) RECORDER TWO presented the following unclassified information to the board:

(U//~~FOUO~~) Hzratullah, ISN 4198, was captured (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) While on patrol, (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) Two men on a motorcycle were observed leaving the scene at a high rate of speed.

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

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

(U//~~FOUO~~) The men were discovered to be Hzratullah, 4198, who was the driver of the motorcycle, and his friend,
(b)(6)

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

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

(U//~~FOUO~~) Hzratullah meets the internment 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 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 4198, made the following statements to the board:

(U//~~FOUO~~) I appreciate my representative. He has helped me before, and he's still here to help me. I stated before that usually poor people get captured, but I still don't have any problems with Americans or anyone. I hope I get released to my family. I try to stick with the truth. You can ask the people of my village and everybody will tell you I'm a good person. Everybody has good information about me. Thank you very much.

(U) [The President of the board asked ISN 4198 if he'd talk about what he doing on the motorcycle (b)(1); (b)(2); (b)(5)]

(U) [The detainee continued.]

(U//~~FOUO~~) I said before that I was going to ^{(b)(1); (b)(2); (b)(5)} to see my friends at the university. We were on the way, and we saw that the way was blocked by Americans and we couldn't go that way. We stopped by a shop, ate some chips, and then tried to go back to our village. (b)(1); (b)(2); (b)(5)

I really don't know what I did or what was wrong. I have no information about that, and I don't know why I'm still here because I didn't do anything wrong.

(U) RECORDER TWO presented the following information to the board:

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5) I was standing beside a shop and I had bought chips and I was eating chips. I had not been in this village before but I go that way to go to

Khowst. I would go to ^{(b)(1); (b)(2); (b)(5)} once every month or two. When I went to ^{(b)(1); (b)(2); (b)(5)}, I would go that way. I chose to go this way because I am not a good motorcycle driver and afraid to use the main road because a driver might hit and kill me. ^{(b)(1); (b)(2); (b)(5)} is a busy city, and I did not drive my motorcycle in ^{(b)(1); (b)(2); (b)(5)}. Once I got to ^{(b)(1); (b)(2); (b)(5)}, I try to walk everywhere around the city. I have known **(b)(6)** for about two or three years. I met him in high school when we were both students. **(b)(6)** is not involved with any unit Coalition Forces. I have never seen **(b)(6)** put anything beside the road. If I am released, I will try to go to Dubai to earn some money because I am engaged.

(U) PERSONAL REPRESENTATIVE TWO presented the following information to the board:

(U//~~FOUO~~) When I was captured, **(b)(1); (b)(2); (b)(5)**

I was in Dubai before and I came back and I was trying to get another Visa and go back to Dubai. I stopped to get chips at a small shop in the village. There were other people around when we were stopped. I don't know how many people were there maybe five, eight, or ten people.

(U) AFGHAN CIVILIAN WITNESS TESTIMONY

(U//~~FOUO~~) **(b)(6)**, Afghan civilian witness, was called (telephoni witness for the board and testified, in substance, as follows:

(U) DIRECT EXAMINATION

(U) PERSONAL REPRESENTATIVE TWO asked, in substance, the following questions:

(U//~~FOUO~~) I am the detainee's brother, **(b)(6)**. I am familiar with the village the detainee was captured in. There are shops on the side of the road that you can stop and buy things. I am not aware of any connections between Hzzratullah and the Taliban or IEDs. The detainee has

always had a motorcycle. We are farmers and to get to our land, we usually use the motorcycle. If he were released, I will vouch for him that he will never be involved in anything wrong.

(U) CROSS-EXAMINATION

(U) RECORDER TWO asked, in substance, the following questions:

(U//~~FOUO~~) I know (b)(6) . He is a good person. I don't know if (b)(6) is involved with any Taliban. All I know that he is a teacher and teaches children. (b)(6) and Hzratulla are friends, but they are not always together. We are busy farming and he doesn't see him all the time.

(U) EXAMINATION BY THE BOARD

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

(U//~~FOUO~~) I don't know if the detainee owns a cell phone or not.

(U) [The witness was allowed to speak to his brother for a few minutes.]

(U) [The call was terminated.]

(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~~) I am very happy here because they give me the chance to study. Now I can write a letter to my family. I am happy of my time here.

(U) [The unclassified hearing adjourned at 1000, 7 June 2010.]

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

(U) [The classified hearing was called to order at 1000, 7 June 2010.]

(U) RECORDER TWO presented the following information to the board:

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

(U) PERSONAL REPRESENTATIVE TWO presented the following information to the board:

(U//~~FOUO~~) (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 4198. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1004, 7 June 2010.]

[END OF PAGE]