

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MAHMUD SALEM HORAN)
MOHAMMED MUTLAK AL ALI,)
Petitioner)
v) No. 05-CV-0247 (HHK)
GEORGE WALKER BUSH, *et al.*,)
Respondents.)
_____)

DECLARATION OF TERESA A. McPALMER

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mahmud Salem Horan Mohammed Mutlak Al Ali that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. An OARDEC staff member redacted information that would personally identify U.S. Government personnel in order to protect the personal security of those individuals. Additionally, this staff member redacted names and identifying information of training camps, since such information is law enforcement sensitive. Finally, this individual also redacted internee serial numbers because

certain combinations of internee serial numbers with other information relates to sensitive internal and intelligence operations that is not suitable for public release.

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

Dated: 6 May 2005

Teresa A. McPalmer

Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: [REDACTED]

09 DEC 2004

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

8 Dec 04

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 2004
Encl: (1) Appointing Order for Tribunal #15 of 12 October 2004
(2) Record of Tribunal Proceedings

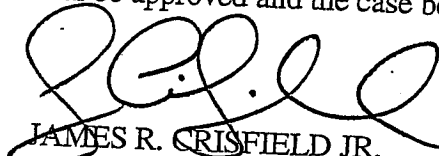
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and elected not to participate.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b).
 1. Note that some information in exhibit R-3 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.
 2. Some information in exhibits R-8, R-11, and R-13 was redacted. It is clear that the only information redacted consisted of internee serial numbers.
 3. Note that the Tribunal Decision Report cover letter erroneously indicates that the document is unclassified if enclosures (2) and (4) are removed. It should read that the document becomes unclassified if enclosures (2) and (3) are removed. Enclosure (4) is not classified. I have made a pen and ink change to correct this administrative error.
- d. The detainee did not request that any witnesses or evidence be produced.
- e. The Tribunal's decision that detainee [REDACTED] is properly classified as an enemy combatant was unanimous.

UNCLASSIFIED

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

- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.


JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

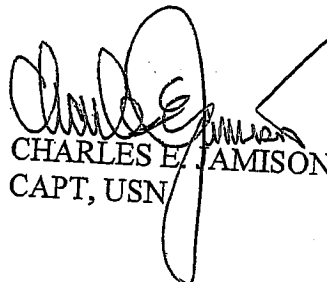
4 November 2004

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings 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 660-3088.



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)3


JRC


(U) TRIBUNAL PANEL: #15

(U) ISN#: 

Ref: (a) (U) Convening Order for Tribunal #15 of 12 Oct 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) Copies of Documentary Evidence Presented (S/NF)
(4) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 23 Oct 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #  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 associated with, al Qaida and the Taliban, 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).


Tribunal President, Colonel, USAF

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #15
ISN # [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or associated with, al Qaida and the Taliban. 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 summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member of, or associated with, al Qaida and the Taliban. The detainee did not participate in the Tribunal process or request any witness or additional evidence be produced.

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-17.

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

The Detainee did not request any witnesses; no rulings were required.

The Detainee requested no additional evidence be produced; no rulings were required.

5. Discussion of Unclassified Evidence

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

- a. The Recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the

Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence.

b. Since the detainee did not participate in the Tribunal process and the unclassified evidence was unpersuasive, the Tribunal relied exclusively on 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 deemed necessary.

b. The detainee understood the Tribunal proceedings. The Personal Representative (PR) advised the detainee of his rights and gave the detainee a translated copy of the unclassified summary of the evidence. The PR said the detainee read the unclassified summary twice then handed it back to the PR. The detainee made a sarcastic expression indicating to the PR that the detainee understood the unclassified summary. The detainee was unresponsive to PR and that is how the PR determined that the detainee did want to participate in the Tribunal proceedings as outlined in exhibit D-a. The detainee did not participate in the hearing.

c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Tribunal President

Colonel, USAF

DETAINEE ELECTION FORMDate: 21 October 2004Start Time: 0812 hrsEnd Time: 0832 hrsISN#: [REDACTED]Personal 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 does not desire to participate in the Tribunal. Tribunal will be In Absentia. Detainee was unresponsive and did not say a word during the entire interview. However, I was able to present the unclassified evidence to him, which he read over two times. I have completed the initial interview silent detainee worksheet. Please cancel the 22 Oct, 0800 follow-up and 26 Oct 0730 Final. The IA Tribunal is currently scheduled for 27 Oct, 1300.

Personal Representative: ///Signed/// 21 Oct 04/// [REDACTED][REDACTED] Major, USAF
Personal Representative

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Combatant Status Review Board

TO: Tribunal Members

FROM: OIC, CSRT (05 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL ALI, Mahmud Salem Horan Mohammed

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.
 - The detainee is associated with al Qaida and the Taliban:
 1. Detainee had a desire to join the Jihad after viewing videos depicting the situation in Afghanistan, Bosnia and Chechnya.
 2. Detainee read a Fatwa in late September 2001 and within two weeks he began his journey to Afghanistan.
 3. Detainee planned his travel from his country of residence, Kuwait, to Afghanistan; by traveling through Iran and Syria.
 4. Detainee traveled to Afghanistan with the intent to attend training at the [REDACTED] training camp, but the [REDACTED] training camp was closed, because of changes necessitated after the events on 11 September 2001.
 5. Detainee entered Afghanistan on 24 October 2001 and stayed at a Taliban center in Ferah.
 6. Detainee was captured at a clinic in Kabul where he was being treated for an illness.
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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2648-1

Exhibit R-1

Memorandum



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

Date 09/28/2004

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

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². 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 05/20/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/28/2004

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

-2-072

UNCLASSIFIED

2650

Personal Representative Review of the Record of Proceedings

I acknowledge that on 25 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

25 Oct 04
Date

[REDACTED]
Signature
Major [REDACTED] USAF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OMAR SAID SALIM AL DAYI,

Petitioner

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

Civil Action No. 05-0634 (RWR)

DECLARATION OF JOSEPH S. IMBURGIA

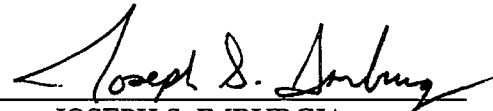
Pursuant to 28 U.S.C. § 1746, I, Major Joseph S. Imburgia, Judge Advocate General's Corps, United States Air Force, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

1. I am the Assistant 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 Omar Said Salim al Dayi 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.

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

Dated: 06 July 2005



JOSEPH S. IMBURGIA
Maj, JAGC, USAF



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 440

10 JAN 2005

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 549**

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 #549 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.

A handwritten signature in black ink, appearing to read "J. M. McGARRAH", is positioned above the typed name.

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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Department of Defense
Director, Combatant Status Review Tribunals

16 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #21

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

[REDACTED], Major, U.S. Air Force Reserve; Member (JAG)

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

12 Jan 05

MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 549

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 # 21 of 16 November 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and affirmatively declined to participate.
- 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 did not request that any witnesses or evidence be produced. Exhibit D-a reflects that the detainee originally requested that the Tribunal be presented with tapes of his interrogations. The Personal Representative informed the detainee that he did not have tapes but that the Tribunal did have reports of his interrogations. The detainee felt that would be sufficient and elected not to participate in the Tribunal process.
- e. The Tribunal's decision that detainee # 549 is properly classified as an enemy combatant unanimous.
- f. The detainee affirmatively chose not to participate in the CSRT process and did not request that his Personal Representative present evidence or make a statement to the Tribunal. A letter from the Personal Representative initially assigned to represent the detainee at Guantanamo Bay, Cuba, reflects the detainee's elections and is attached to the Tribunal Decision Report as exhibit D-b. The Tribunal was held *in absentia* outside Guantanamo Bay with a new Personal Representative who was familiar with the detainee's file. This Personal Representative had the same access to information, evidence, and witnesses as the Personal Representative from Guantanamo Bay. The

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 549

detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit post-tribunal comments to the Tribunal.

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


BREE A. ERMENTROUT
CDR, JAGC, USNR

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosure (2).


(U) TRIBUNAL PANEL: #21

(U) ISN#: 549

Ref: (a) (U) Convening Order for Tribunal #21 of 16 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/~~FOUO~~)
(2) (U) Copies of Documentary Evidence Presented (S/NF)
(3) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 17 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #549 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is associated with al Qaida in support of military operations against the coalition, 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 enclosure (1).


Col, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #21 _____

ISN #: _____ 549 _____

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 associated with al Qaida in supporting military operations against the coalition. 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.

2. Synopsis of Proceedings

The Tribunal conducted the proceeding on 17 November 2004. The Recorder presented Exhibits R-1 during the unclassified portion of the Tribunal. The Unclassified Summary of Evidence, Exhibit R-1, indicates, among other things, that the detainee is an al Qaida member and that the detainee participated in military operations against the United States or its coalition partners. The Recorder called no witnesses.

The detainee did not attend the Tribunal hearing and affirmatively declined to participate. He also did not provide the Personal Representative with any statements or evidence to present on his behalf. The detainee's decision is reflected on the Detainee Election Form (Exhibit D-a) and the Guantanamo Personal Representative's affidavit (Exhibit D-b). The Personal Representative presented no evidence and called no witnesses.

During the classified portion of the Tribunal hearing, the Recorder presented Exhibits R-2 through R-11. These exhibits had been reviewed by the Personal Representative prior to being presented to the Tribunal. The Personal Representative presented no classified exhibits. The classified exhibits support the assertions on the Unclassified Summary of Evidence and the Tribunal found the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-11, D-a and D-b.
- b. Testimony of the following persons: None.
- c. Statement of the detainee: None.

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

The detainee requested no witnesses.

The detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Recorder offered Exhibit R-1, the Unclassified Summary of Evidence, into evidence during the unclassified portion of the proceeding. 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. Because there was no other unclassified evidence for the Tribunal to consider, the Tribunal had to look to the classified exhibits to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions.

6. Discussion of the Classified Evidence

During the classified portion of the Tribunal hearing, the Recorder presented Exhibits R-2 through R-11. While some exhibits were more persuasive than others, all classified exhibits fully supported the assertions on the Unclassified Summary of Evidence and were persuasive. Based upon these facts the Tribunal found the detainee is properly classified as an enemy combatant.

7. Consultations with the CSRT Legal Advisor

None

8. Conclusions of the Tribunal

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

- a. The detainee chose not to participate in the Tribunal proceeding. No evidence was produced that caused the Tribunal to question whether the detainee was mentally and physically capable of participating in the proceeding, had he wanted to do so. Accordingly, no medical or mental health evaluation was requested or deemed necessary.

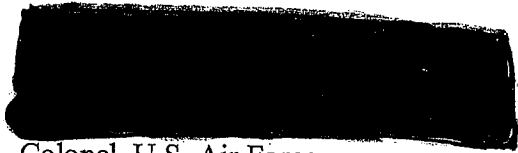
b. The Personal Representative informed the Tribunal that the detainee understood the Tribunal process but chose not to participate, as indicated in Exhibit D-a and Exhibit D-b.

c. The detainee is properly classified as an enemy combatant because he was associated with al Qaida in supporting military operations against the coalition.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Air Force
Tribunal President

DETAINEE ELECTION FORM

Date: 1 Nov 04

Start Time: 0810

End Time: 0835

ISN#: 549

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

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

No witnesses. Wants a tape of his story from 2 years ago presented to Tribunal.

Searched for a top of his interrogations at Guantanamo Bay with no results. Advised detainee that reports on his interrogations were available to the Tribunal. Detainee indicated that would be sufficient to tell his story.

[REDACTED]
Personal Representative 04 Nov 2004

Personal Representative: [REDACTED]

An initial interview was held with detainee AL DAYI, OMAR SAID SALIM (ISN 549) on 01 Nov 2004.

[REDACTED] The detainee spoke the language of the linguist and understood the linguist.

[REDACTED] The detainee was reminded that the U.S. government established a Combat Status Review Tribunal to review his designation as an enemy combatant.

[REDACTED] The detainee was advised that I am not an attorney nor his advocate, but will assist him in the CSRT process if he chooses to participate.

[REDACTED] The detainee was advised that a tribunal of military officers will review his enemy combatant designation even if he chooses not to participate.

[REDACTED] The detainee was advised that he will have an opportunity to speak on his own behalf and call witnesses and ask questions of the witnesses and tribunal members.

[REDACTED] The detainee was advised that he may choose not to appear at the Tribunal hearing or participate in the CSRT process, but that I could present information on his behalf.

[REDACTED] The detainee confirmed that he understood the process as explained to him and did not have any questions.

[REDACTED] The detainee affirmatively chose not to participate in the CSRT process but requested that I present reports from his interrogations to tell his story. Such reports exist in the classified evidence.

I affirm that the information above is complete and accurate to the best of my knowledge.

[REDACTED]
[REDACTED] LtCol, USAFR
Personal Representative

15 Nov 2004
Date

Exhibit D-62
2662

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (13 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL DAYI, Omar Said Salim.


1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States indicating the detainee is an al Qaida member and participated in military operations against the United States or its coalition partners.
 - a. The detainee is an al Qaida member:
 1. The detainee traveled from Sana, Yemen to Afghanistan via Dubai, United Arab Emirates, and Karachi/Quetta, Pakistan in August 2001.
 2. The detainee traveled to Kandahr, Afghanistan for weapons training.
 - b. The detainee participated in military operations against the United States or its coalition partners.
 1. The detainee was an Arab fighter in the Tora Bora region of Afghanistan.
 2. The detainee was armed with a Kalashnikov rifle in Tora Bora.
 3. The detainee was arrested in Jalalabad by U.S. forces.
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

R 1
2663

Personal Representative Review of the Record of Proceedings

I acknowledge that on 17 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #549.

 I have no comments.

My comments are attached.



Name

17 Nov 04
Date



Signature

ISN #549
Enclosure (3)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WALID SAID BIN SAID ZAID,)

Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-1646 (JDB)

DECLARATION OF TERESA A. McPALMER

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Walid Said Bin Said Zaid 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: 16 February 2006

Teresa A. McPalmer

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



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 790
29 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 550**

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 #550 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~~



Department of Defense
Director, Combatant Status Review Tribunals

4 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #13

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

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

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

MEMBERS:

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

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

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

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

18 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 # 550

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 #13 of 4 October 2004
 (2) Record of Tribunal Proceedings

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

a. The detainee was properly notified of the Tribunal process and voluntarily elected not to participate. *See* exhibit D-a. The detainee prepared, with the assistance of his Personal Representative, an unsworn statement in response to the unclassified. *See* exhibit D-b. The Tribunal considered exhibits D-a and D-b in its deliberations.

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

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

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

e. The Tribunal's decision that detainee #550 is properly classified as an enemy combatant was unanimous.

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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

13 November 2004

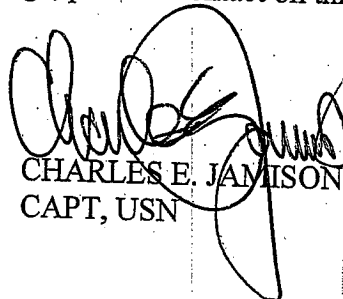
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 550

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: #13

(U) ISN#: 550

Ref: (a) (U) Convening Order for Tribunal #13 of 04 Oct 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~~)—None
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened 26 October 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 26 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #550 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, al Qaida and Taliban, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #13
ISN #: 550

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 is a member of, or affiliated with al Qaida, and was part of or supporting the Taliban. 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 indicated that the Detainee was a member of al Qaida. The Detainee is a Yemen citizen who was recruited to travel to Afghanistan for Jihad readiness military training. The Detainee was financed by a facilitator to travel from Sana'a, Yemen, to Dubai, United Arab Emirates, to Karachi, Pakistan, and finally to the [REDACTED] training camp in Afghanistan. The facilitator was also a trainer at [REDACTED]. The Detainee arrived at [REDACTED] Training Camp in July 2001. Training began in August and included operation and maintenance of the AK-47 assault rifle, the PK machine gun, rocket-propelled grenade launcher, tactics, geography and map symbols. The Detainee participated in hostilities against the United States and its coalition partners. The Detainee sustained multiple injuries as a result of the United States bombings in the Tora Bora Mountains. The Detainee was taken to Jalalabad, Afghanistan, for medical care where United States Forces detained him. The Detainee chose not to participate in the Tribunal process, however he provided responses to the statements about him contained in the unclassified evidence to the Personal Representative. The Personal Representative reduced these responses to writing and submitted them as Exhibit D-b. The Detainee called neither witnesses nor requested the production of documents.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a through D-b and R-1 through R-18.
- b. Testimony of the following persons: none.

c. Unsworn written statement of the Detainee.

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

The Detainee requested neither witnesses nor the production of documents and as such the Tribunal President did not make any rulings regarding evidence

5. Discussion of Unclassified Evidence

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

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

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's unsworn written statement as presented by the Personal Representative from his interview with the Detainee. The Personal Representative summary of his interview with the Detainee is attached as Exhibit D-b. In sum, the Detainee stated that he was not aware that [REDACTED] was associated with al Qaida and that he never fired upon US forces or their allies. The Detainee stated that he did train on the Kalashnikov and the rocket-propelled grenade launcher, but did not train in tactics or map reading; that he was recruited in Yemen so he could go to Afghanistan to be a teacher, but he did train at the camp because that's what was expected.

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 deemed necessary.


b. The Detainee understood the Tribunal proceedings. Although he did not actively participate, there was reason to believe he did understand the nature of the proceedings in that he provided his statements to the Personal Representative for inclusion in the record.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and was part of or supporting the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army
Tribunal President

DETAINEE ELECTION FORM

Date: 24 Oct 2004

Start Time: 0914

End Time: 1010

ISN#: 550

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

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee does not want to personally attend tribunal.

Detainee does not want to submit a written statement.

Detainee does want the personal representative to make an oral statement to the tribunal regarding the unclassified summary.

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (14 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal - Zaid, Walid Said Bin Said

- 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 the detainee was a member of al Qaida and participated in military operations against the United States and its coalition partners.
 - a. The detainee was member of al Qaida:
 1. The detainee is a Yemen citizen who was recruited to travel to Afghanistan for Jihad readiness military training.
 2. The detainee was financed by a facilitator to travel from Sana'a, Yemen, to Dubai, United Arab Emirates, to Karachi, Pakistan, and finally to the [REDACTED] training camp in Afghanistan.
 3. The facilitator was also a trainer at [REDACTED]
 4. The detainee arrived at [REDACTED] Training Camp in July 2001. Training began in August and included operation and maintenance of the AK-47 assault rifle, the PK machine gun, rocket propelled grenade launcher, tactics, geography and map symbols.
 - b. The detainee participated in hostilities against the United States and its coalition partners:
 1. The detainee sustained multiple injuries as a result of the United States bombings in the Tora Bora Mountains.
 2. The detainee was taken to Jalalabad, Afghanistan, for medical care where United States Forces detained him.
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 2675
2-1

Memorandum



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

Date 10/13/2004

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

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². 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 550 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 05/19/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/13/2004

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

[REDACTED]
Intelligence Analyst

Page 2 of -2-

2677

UNCLASSIFIED

Name: ZAID, Walid Said Bin Said (550)

Interview conducted 24 October 2004

Comments regarding allegations in the unclassified summary:

3.a.1: I did not leave Yemen to participate in Jihad. I did not want to participate in Jihad. I did leave Yemen for AF. Why? I did not have a job in Yemen. The recruiter promised me a job in AF as an Arabic teacher.

3.a.2: This is true. You have to be trained in weapons. Everybody does this.

3.a.3: I never saw the facilitator in AF. I only saw him in Yemen. I did not know the facilitator was a military trainer when we spoke in Yemen.

3.a.4: The first part of this is true. I did receive training with the weapons. I also learned to dig ditches and put up tents. I did not receive any training in tactics, geography or map reading.

3.b.1: This is true. Jalalabad was bombarded and we fled to the nearby mountains, which were the Tora Bora mountains. Then we were bombarded there.

3.b.2: This is true.

I never fired weapons at US or ally soldiers. I did train to fire weapons in case of fighting against the Northern Alliance if I had to, not against US or ally forces.

As given to Personal Representative on 24 October 2004.

EXHIBIT D-6
2678

Personal Representative Review of the Record of Proceedings

I acknowledge that on 25 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #550.

I have no comments.

My comments are attached.

[REDACTED] USAF
Name

27 OCT 2004
Date

[REDACTED]
Signature

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FOUAD MAHOUD HASAN AL RABIA)
et al.)
Petitioners,)
v.) Civil Action No. 02-CV-0828 (CKK)
UNITED STATES, *et al.*,)
Respondents.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., 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:

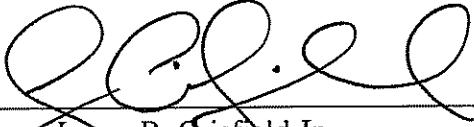
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

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 Fouad Mahoud Hasan Al Rabia that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted the names of other detainees, family members of detainees, and

information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals.¹ I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance. Finally, I have redacted a document title that is actually classified but was listed on a document marked only as "FOUO."

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

Dated: 12 Oct 04


James R. Crisfield Jr.
CDR, JAGC, USN

¹The attached documents include an English translation of a letter written in a foreign language, which contains personal identifying information that I have redacted to protect the personal security of those individuals. The original letter is not included for public release, because I presently do not have the foreign language resources to make similar redactions in the original letter.



**Department of Defense
Director, Combatant Status Review Tribunals**

OARDEC/Ser:
29 September 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

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

FOR OFFICIAL USE ONLY

28 Sep 04

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 2004

Encl: (1) Appointing Order for Tribunal #4 of 6 August 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibit R-3 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 made no requests for witnesses or other evidence. The detainee's Personal Representative sought to enter the detainee's polygraph and Computer Voice Stress Analyzer results into evidence. The polygraph results were admitted and considered by the Tribunal, but were given no weight by the Tribunal due to their inconclusiveness.

The Tribunal refused to permit introduction of the voice stress analysis results. In reaching this decision, the Tribunal relied upon an email from a representative of the Criminal Investigation Task Force (CITF). In that email, attached to the Record of Proceedings as enclosure (5), the CITF representative states that the use of voice stress analysis results for credibility assessment is not permitted by the Office of the Secretary of Defense. Based on this information, the Tribunal decided that it could not consider the voice stress analysis results.

UNCLASSIFIED

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

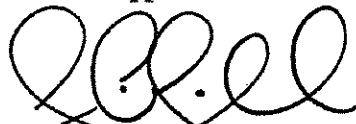
Due to the well-known unreliability of voice stress analysis, the Tribunal decision not to allow the evidence could not have prejudiced the detainee. Nonetheless, the Tribunal was not bound by policy set by the Office of the Secretary of Defense regarding whether such analysis can be utilized in determining credibility. There are no rules of evidence in references (a) or (b) and the Tribunal is free "to consider any information it deems relevant and helpful to a resolution of the issues before it. At the discretion of the Tribunal, for example, it may consider hearsay evidence, taking into account the reliability of such evidence in the circumstances." The information in the email could have legitimately been used by the Tribunal to assess the weight to give the evidence, but it should not have been determinative of its admissibility. The CSRT is simply not bound by OSD policy on the use of voice stress analysis no matter how unreliable such evidence may be.

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

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

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

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



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

UNCLASSIFIED



Department of Defense
Director, Combatant Status Review Tribunals

6 August 2004
Ser0038/ajs

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #4

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

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

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

MEMBERS:

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

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

[REDACTED] Lieutenant Colonel, U.S. Marine Corps; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
U.S. Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

21 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings 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 660-3088.

A handwritten signature in black ink, appearing to read "D.L. Taylor".

DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #4

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #4 of 6 August 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)
(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) E-mail concerning CSRT use of CVSA results dated
13 August 2004 (U//FOUO)
(6) (U) Personal Representative's Record Review (U)

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 6 September 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee was a member of, or affiliated with, Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

Colonel, US Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #4
ISN #: [REDACTED]

1. Introduction

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

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder in the form of the Summary of Evidence for Combatant Status Review Tribunal (Exhibit R-1) indicated: The detainee provided material support to the Taliban and Al Qaida; the detainee traveled to Afghanistan in October 2001; the detainee met with Usama Bin Laden on four occasions during July 2001; the detainee delivered money to Usama Bin Laden; the detainee's name and telephone number were found in an address book recovered from the residence where senior Al Qaida operative Khalid Shaykh (sic) Muhammad was captured; the detainee provided coordination and logistical support to Taliban fighters in Tora Bora [Afghanistan]; the detainee was present at an Al Qaida meeting in the Tora Bora mountains [Afghanistan] where the distribution of SAM-7s and other anti-aircraft weapons was discussed; and the detainee was an operator for the Al Wafa non-governmental organization (NGO), and likely transferred large sums of money through a front company. The Recorder called no witnesses.

The detainee elected to participate in the Tribunal process. He communicated his desire to participate to his Personal Representative prior to the proceedings, and his decision was recorded on a Detainee Election Form dated 27 August 2004, which was signed by his Personal Representative. At the proceeding, the detainee elected to testify under a Muslim oath he provided instead of the one provided by the Tribunal (see Enclosure (3) to the CSRT Decision Report). In his oral statement, the detainee indicated: He was not a member of, or affiliated with, the Taliban or Al Qaida; he neither carried weapons nor trained to do so; he went to Afghanistan the first time to explore whether the Afghan people needed relief efforts; during that trip, he met Usama Bin Laden on four (4) occasions, but meeting Usama Bin Laden was not the purpose of his trip and the only reason interrogators know about the meetings is because he volunteered the information;

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he is not an operator for the Al Wafa organization; he never delivered money or any other support to Usama Bin Laden; his name and number likely showed-up in a phone book recovered from Khalid Sheik Muhammad's (KSM) residence because Abu Suliyman (the individual who arranged the detainee's first trip to Afghanistan) was an influential man and had the detainee's business card; and the detainee did not coordinate logistical support for the Taliban while fleeing through the Tora Bora Mountains to Pakistan. After being reminded by the Tribunal President that he did not have to answer any questions, the detainee indicated he would answer any questions. The detainee then proceeded to answer questions from the Tribunal for a period of approximately forty-five (45) minutes. During the questioning, information arose that conflicted with the detainee's opening statement. Specifically, while fleeing to Pakistan via the Tora Bora Mountains with a group the detainee admitted contained, in part, Al Qaida fighters, the detainee did, in fact, help coordinate logistics efforts for Abdul Ghoudous, someone the detainee admits was, in his estimation, Al Qaida. The Personal Representative called no witnesses.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-A through D-D and R-1 through R-16.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

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

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

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). The gist of the detainee's testimony is summarized in paragraph 2, above. Two points warrant mention. First, the detainee admitted he assisted with the logistics for the people held up in the Tora Bora Mountains, some of whom were Al Qaida or persons fighting together with Al Qaida. Although the detainee attempts to minimize his role, by his own admission, his efforts supported Al Qaida forces or associated forces that were engaged in hostilities against the United States or its allies. Furthermore, and this applies both to the detainee's statements about his logistics role and his testimony as a whole, the Tribunal did not find the detainee credible. For example, a respected businessman does not rely on someone he barely knows to arrange a trip to Afghanistan for him, and then allow himself to be smuggled across the border from Pakistan to Afghanistan. Also, the detainee's reason for returning to Afghanistan on 3 October 2004 – to photograph areas where relief would be channeled – was similarly unbelievable. The Tribunal did not believe either of the trips the detainee took to Afghanistan were for charitable work, but instead believed they were for the purpose of supporting Al Qaida. When the detainee's lack of credibility is coupled with his vague connections to charitable organizations, his trips taken with Al Qaida operators, and his meetings with Usama Bin Laden, the Tribunal found there was more to the story than the detainee would have the Tribunal believe.

c. The Tribunal also considered Exhibit D-B, a letter from the detainee's wife concerning the detainee's charitable activities. Even assuming the detainee did conduct some sort of charitable activities in Afghanistan (and that they were not a cover for his Al Qaida related activities), the Tribunal finds the detainee's non-charity related activities in Afghanistan established his enemy combatant status by a preponderance of the evidence.

d. The Tribunal also considered Exhibit D-D, the detainee's polygraph results. Because the results were inconclusive, the Tribunal gave no weight to the exhibit.

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

The detainee mentioned during his testimony that he had taken and passed several Computer Voice Stress Analyzer (CVSA) tests and that they, together with his polygraph results, proved he was telling the truth. The Personal Representative then sought to admit both the CVSA and polygraph results. Because the Tribunal did not know whether CVSA results could be considered, the Tribunal President asked the Recorder to produce an e-mail ostensibly containing instructions on the use of CVSA results. During a recess in the Tribunal proceedings, the CSRT Assistant Legal Advisor produced the e-mail that directed CVSA results not be used because their reliability had not been established. Accordingly, the detainee's polygraph results were admitted (Exhibit D-D); however,

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based on the CSRT Assistant Legal Advisor's guidance and the 13 August 2004 e-mail concerning CSRT use of CVSA results, the Tribunal did not admit the CVSA results into evidence. The controlling e-mail is attached as Enclosure (5) to the CSRT Decision Report.

7. Conclusions of the Tribunal

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

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

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, US Army
Tribunal President

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Summarized Detainee Statement

Tribunal President: Fouad Al Rabia, you may now present a statement. Do you have a statement to make to this Tribunal?

Detainee: Yes, I do.

Tribunal President: Would you like that statement to be sworn or unsworn?

Detainee: Which would be better for you?

Tribunal President: It is strictly your choice. If you wish to make a sworn statement, that is fine. If you wish to continue without a sworn statement, that is your choice as well.

Detainee: I value the word Allah very much. If I would say, my word here would have weight on this proceeding, I will swear by Allah. Otherwise, I will not say his name in vain.

Tribunal President: This is a very formal proceeding. I understand the importance you place upon Allah. We place a very great importance upon this Tribunal as well. So I believe this is an occasion where a sworn statement will be worth your time. Would you like to have the Recorder read the Muslim or non-Muslim oath?

Detainee: Yes, I have read those oaths, but I would like to read my own.

The Detainee was sworn using a Muslim oath of his choice. The Detainee declined using the prepared Muslim oath. The Detainee testified to the Tribunal in English in substance as follows:

Detainee: May I start?

Tribunal President: You may begin.

Detainee: I would like to start by introducing myself. My name is Fouad Al Rabia. I am a Kuwaiti national. I am 45 years old and I am married with four children. I have a masters degree in business. I have worked for thirty-four years with Kuwaiti Airways as an engineer. I also partially own and manage a health club. I also do relief work in my extra time. I am a very busy businessman with a life back at home. I will start now with what has happened.

In May 2001, I was in the club I was managing. A young man, a member of the club, came to me and said you and the relief organization I volunteered for, which helps other nations all over the world, forgot about the millions of people in Afghanistan. I asked him what he meant by that. I said Kuwait did not forget about Afghanistan, but Kuwait was disappointed with the Afghanis after the whole world had supported the Afghanis by

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assisting in removing the Russians. Then they started a civil war and became the largest producers of drugs in the world. The young man stated that this was wrong information. The young man stated there was no civil war; there is war in the Northern part of the country; there are no people carrying weapons in the street; and there are no drugs. All the drug fields had been burned. This sounded very strange to me. I did not believe a country could gain control over the drug problem just like that by burning tens of thousands of poppy fields. The young man stated the only problem the Afghans had at that time was the drought and the lack of medical infrastructure. To us Kuwaitis, helping Afghanistan would have been a great victory to the Gulf area. All of the drug problems in the Gulf stem from Afghanistan. Whoever was overseeing these tens of thousands of poppy fields totaled five million. By burning these fields, they became drugless; they became homeless; and they have theft in the area. This young man, named Abu Suliyman who came to me in the club, was just like any other Kuwaiti. He asked me to come to Afghanistan and see the problems for myself. I asked him if there were any other people going. Abu Suliyman replied many people were going there. Abu Suliyman stated a student scholar by the name of Abu Muldah would also be going. I considered it a great honor to be accompanied by a student scholar. A student scholar does not have students of his own nor has written books, but he is studying to be so. However, a student scholar is extremely knowledgeable in Islam. I thought it was a good idea if I went along with this student scholar. Abu Suliyman stated he would make all the arrangements for the trip. Once I reached the airport in Pakistan, I would be escorted all the way into Afghanistan. I asked Abu Suliyman what kind of visas I would need. Abu Suliyman stated I did not need any visa to get into Afghanistan. The fact that I was Muslim would allow me entrance into the country. He stated there were no border controls or passport controls into Afghanistan. It is a refugee pass that everyone was going through, so it made no sense to have an office there. Abu Suliyman said Abu Muldah would be ready by June 1st to go. I said fine. It was very easy for me to take a ten-day vacation from my employment. Ten days was more than what we needed to go and see what we needed to see. I gave Abu Muldah a courtesy call, and told him I was going on the trip with him. We left as planned, and traveled to Pakistan. A gentleman was waiting for us at the airport in Pakistan. Abu Muldah and I were very distinctive looking. We were dressed with headpieces, scarves, and we both were a little chunky. I weighed 240 pounds at the time and Abu Muldah's weight was not very far behind mine. The gentleman was able to pick us out of the crowd. The gentleman took Abu Muldah and myself by taxi from the airport to a town called Quetta. There we slept. The gentleman said the next morning a taxi would take us to our next location.

The next morning a taxi came with another escort. The second escort told Abu Muldah and I that the way we looked, we would not pass any of the checkpoints. It looked like we had money, and no one would let us in without asking for any money. There were about seven checkpoints. If we did not pay them, they would let us stand there for hours. The escort told Abu Muldah and I to keep only our scarves and to give him everything else we had that could possibly show we were well-off people.

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Detainee (continued): The escort wanted us to blend in and look more like the other Pakistani people. Abu Muldah and I complied. We got in the car and there were many check points along the way. We were able to pass across. When we reached the last checkpoint, the escort told us to get out of the car. The escort told Abu Muldah and I we had to ride motorbikes the rest of the way. I was concerned because of my weight, and I had not ridden on the back of a motorbike. Also, it was not honorable for a scholar, Abu Muldah, and myself to do such a thing. We were told we had to ride on the motorbikes. We complied. The ride was about four or five minutes. Once we crossed, another taxi met us on the other side. Once we were in the taxi, there were no problems. The taxi took Abu Muldah and I to meet with an official, Abu Sulyman, that greeted us. Abu Muldah and I complained about the improper travel across the Afghan border. The official told us this was not the proper way of traveling, but we were in Afghanistan. There was no border control, no passport check, nothing; there were no laws, and we would see for ourselves. We visited for about an hour. I saw refugees scattered in the desert. This was in June. It was very hot. People were lying on the ground in the desert. The scene was so much to comprehend.

As we were traveling from Kuwait, I realized the purpose of Abu Muldah's trip to Afghanistan differed from mine. I was there to see the refugees and to assist with their situation. Abu Muldah said there was a missionary man that told him there was a ruler, Bin Laden, called Al Abu Asaa. I did not know who Al Abu Asaa was. Abu Muldah said this person was identified in the prophecy of the Koran as the guided one, Al Mahi. The guided one is someone who will pave the way. Abu Muldah said there were a few more people who are paving the way to Al Mahi. I told Abu Muldah I did not know that. Abu Muldah said there was a man called Al Abu Asaa and another man, I cannot recall. Abu Muldah said maybe Bin Laden is Al Abu Asaa. Abu Muldah said he had to find out if this were true. If this were not true, the word had to get out to the people so they would not follow a false prophecy. I asked Abu Muldah how he was planning to see this person. I asked if we were going to climb mountains or go out in the middle of the night. Abu Muldah said no, and he was told that Bin Laden is living inside a residence in Kandahar. Many people visit Bin Laden there - just like any normal person. Abu Muldah assured me we were not sneaking about to do anything illegal. I said fine. I am going to Afghanistan for my purpose.

Once we reached the official's residence in Kandahar, I had a gift, a small two-gallon container of holy water from Mecca. It is customary to give a gift to the person who arranged for our arrival. It was a small container, and I was able to carry it aboard the aircraft. I also had an incense burner, or hand warmer, that I gave as a gift. I told the official what I saw, but for me to present this information to the relief organization, I would need statistics. The official told me he would go to the consulate and get an appointment. The official was able to make me an appointment with the office of the Governor of Kandahar. I went there, and officials from the UNCR (United Nations Commission for Refugees) and WFP (World Food Program) were there. I told the Kandahar official I was there to help assist the problems concerning malnutrition, disease, health problems, and drugs.

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Detainee (continued): The next day, I went back and met with officials from the Ministry of Health and the Ministry of Public Works. I gave them my business card. The public works official talked about a problem concerning the lack of water. The health ministry official talked about the lack of medical infrastructure. They had no proper operating rooms, dialysis machines, delivery rooms, no incubators, nothing. I told both officials I needed official, stamped documentation to take back to the people who could do something about their problems. The official told me it would take a couple of days to gather up the documentation, and they would fax it to me when it was ready. I told them that was fine. My meeting concluded, and I returned back to the residence. I was convinced the people of Afghanistan needed help. It was a total of 10.2 million refugees in the region that needed assistance - more than half of the population. It was a disaster area. I did not see any weapons in the streets. I did not see drugs being sold in the streets. I discovered from my research that the United Nations Drug Control Program visited Afghanistan and found no poppy fields. My side of the trip was finished.

I went back to the residence. Someone told Abu Muldah that he was in luck; Bin Laden came to town and he could see him today. To us in Kuwait before this, Bin Laden was an eccentric millionaire who became a revolutionary. This was way before September happened, and way before we realized what Bin Laden was capable of doing. The house was in Kandahar, and everything looked peaceful there. We went inside. There were no guards and we were not searched. Bin Laden was sitting in an open room and he greeted us. We sat down. When we were in the Governor's office meeting about the refugees - I am the one who talked because it was my business - the person who listened was Abu Muldah. This time, it was the other way around. Abu Muldah talked and I listened, because I am just a person seeing what was going on. I was seeing the chat that was going on. As I said, Abu Muldah had specific questions to find out if this person was the man with the cane or not. Abu Muldah asked this person, Bin Laden, where he was from; so on and so on. Then Abu Muldah asked Bin Laden his opinion about killing innocent people, killing civilians. I think Abu Muldah was referring to the bombing in Africa. Bin Laden replied, he did not order the bombing but he was not shocked by it. Bin Laden cited words from Arabic stating I do not order massacres, but I do not object if I see them. So, this did not sit well with Abu Muldah because Al Abu Asaa is supposed to be the man with the cane. Al Abu Asaa should be guiding people like a Shepard with a stick, not with a sword. Al Abu Asaa is not supposed to be killing people; he was supposed to preaching to them and guiding them to the way to the guided one. The conversation ended about late afternoon.

A young man named Abu Sulyyman came and showed Bin Laden the hand warmer. Abu Sulyyman said that in Kuwait the item was used as an incense burner, but it is actually a hand warmer. It could be useful for people in the mountains. He looked at me and said we would rather have three hundred pairs of woolen underwear instead of hand warmers. Then, somebody came into the room; this was an open room, it was not closed off. A man who looked like another visitor came and hugged him. This man gave him perfumes, sandalwood, and things like that from Saudi Arabia. He had nothing else in his hands, because they checked everything before you get close to Bin Laden. And that was

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the end of that. We were asked to go to the second room to have dinner. We went to pray the sunset prayer. We had dinner. I asked Abu Suliyman why did he embarrass me by letting Bin Laden ask me about the hand warmers. Abu Suliyman said Bin Laden was speaking to him, not me. Abu Suliyman said that there were no strings attached, and they were not asking us for anything. This was Abu Muldah's fault, because this was his part of the trip.

I later asked Abu Muldah if he thought Bin Laden was the man with the cane. Abu Muldah replied he did not think so. Very important point that I missed earlier: Abu Muldah asked Bin Laden straightforward what he wanted. Bin Laden said he wanted the Americans out of the Gulf. Then, I asked how about Kuwait. Last time we had Saddam enter Kuwait because there was no one there to protect us. Bin Laden said look at the big picture, meaning it was okay for Saddam to enter Kuwait again. Why? Because if the Americans leave, Saddam would come in. Bin Laden said no problem. Let Saddam come in and then something would happen, and control would come back. By that time, what is going to happen to Kuwait? I was in Kuwait during the invasion. I saw what Saddam did. I saw what could be done to a small country, like Kuwait, by an enemy. So when we went outside, I asked Abu Muldah if Bin Laden was the man with the cane. Abu Muldah said I don't think so. I replied thank God, because if he were the man with the cane, that means he is coming to our area, as the prophecy states, and he will destroy Kuwait. I am a business man in Kuwait. If I wanted to see Kuwait disappear, I would not have my fortune in Kuwait. I would take my family and my business somewhere else, where it would be safe. But I have everything in Kuwait because I feel it is safe, and I would like for Kuwait to remain safe. We have friends to help keep Kuwait safe, under the grace of Allah of course.

So, that was the end of the first meeting. The next day Abu Muldah and I were invited to lunch. Bin Laden did attend this luncheon. That night Abu Muldah and I were invited again. Bin Laden was also invited because he was the man, and people invited him. Abu Muldah and I were strangers visiting the town, so we were invited as well. This was the third meeting. Then the day after that was the day for Abu Muldah and I to leave to return to Kuwait. It is our custom if someone invites you to their home, then before you leave the town, you have to go back and say farewell. So we went back to the house, but Bin Laden was not there. So, Abu Muldah and I went into a room where a video tape was played of Bin Laden's interviews with CNN, Al-Jazeera, and other news agencies. Then, Bin Laden came with Abu Suliyman. They saw us; we said goodbye; and then we left.

Those are the four times I saw Bin Laden. As you can see here in the points, it mentions I met Bin Laden four times. This was not an intelligence gathering. This is what I told them. I told the interrogators I saw Bin Laden, but they changed it to say I met with Bin Laden. Look what the interrogators wrote about me. Anyway, I will continue.

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Detainee (continued): I went back to Kuwait. In Kuwait, I started doing my research. I looked at the UN articles; I looked at the World Food Program articles; and I looked at the WFP and UNCR articles. I compiled all my research on that matter, and it is ready for you in Kuwait. I have letters from my family saying all the documentation is waiting and ready for you. It has been translated and presented to the appropriate officials. I would like to present it now.

Personal Representative submits Exhibit "D-B" to the Tribunal

Detainee: The second half of the letter is the document part. The first half is a greeting. So, I went to the relief organizations. The faxes came in from Afghanistan. I was supposed to get 20 pages, but I only received 7 and a half because of the bad lines in Afghanistan. I took my research, along with the faxes, to the relief organization. The organization stated this was far greater than for one individual organization to handle. The Kuwaiti Joint Relief Council should take this job. I was told I was to go and brief the head of the Joint Relief Council. I went to present the information to this person. I had an appointment with this person. I showed him my research, and he said this was something that was far greater than any one person can handle. He was convinced from my research that Afghanistan was a genuine disaster area. So, we will re-open our regional office in Peshawar, which is in Pakistan. The UN does not acknowledge the Taliban as a Government - neither does the relief organization approve of the Taliban as a Government. They also requested that I be the head of the Peshawar relief office. There was no objection to my appointment, and soon after a secondment letter for me was to be drafted. A secondment letter is something we have in Kuwait that simply authorizes my job, Kuwait Airways, to place me in a paid leave status for the duration of the appointment, which was to be for one year. I took this letter to Kuwait Airways after I received the letter from the Kuwaiti ministry. Once the Kuwait Airways President signed the letter, my paid leave would start automatically, and I would be headed to the office in Peshawar. I understood that once I reached this stage, it would mean I would have to make a presentation to all the relief council heads, and they would assign staff to different jobs and allocate the budget. I realized they would not allocate a budget for this purpose. I realized the department heads would not allocate the budget based on just my word. I needed to take pictures of the hospitals, the dry terrain, the operation rooms, the refugees in the desert, and so on and so forth. These were the things the department heads were looking for. So, I was ready to help and do what I needed to do to educate the gentlemen.

I did not want to travel to Afghanistan in the manner I did during my last trip. It did not look proper. Because of my weight, I was not going to ride on the back of a motorbike again. I was too big for that. Also, it was not honorable for a person of my stature. I was thinking of how I was going to go back to Afghanistan to take the pictures I needed. I did not want to come close to Bin Laden after what he said; I did not want to get too close to Bin Laden's people because I had no idea of what they were going to do. And then, all of a sudden, September 11th happened. At that time, no one knew who was responsible, but as the days went by the fingers started pointing at Bin Laden.

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Detainee (continued): During this time I had closed my research of the things going on in Afghanistan. I was preparing to have someone take over my position at my job until I returned. I had to resign my job as the manager of the health club so they could appoint someone else to take over as manager. I gave the club enough notice of my pending resignation. The news had come that I was leaving the club for the relief organization business. It was big news. During that time I heard the news that the Taliban was threatening to exile the non-Muslim people from Afghanistan. So, even with all the problems going on in Afghanistan, even with the need that they had, the Afghan Government was planning to throw all the people out - all the people who were helping them out. So, the need even became greater for some one to come out and help the refugees. During that time also, the drought center was estimating that in 2002 the rainfall would be very little in Pakistan and Afghanistan. So, the problem was becoming greater and escalating.

I was then contacted by a friend of Abu Suliyman. This person asked me if I was going to Pakistan. I told him yes, that I was going to run the office there, but I needed to go to Afghanistan first and take pictures of everything I saw. I told this person I did not want to go through Abu Suliyman, because Suliyman was a part of Al Qaida. This person told me he was going to Afghanistan and I told him I wanted to go. I told this person I did not want to play around, and I wanted to travel officially by using my passport. This man told me he did not approve of Al Qaida. Mr. Abu Hufs is this the second gentleman. I found out later the reasons why Abu Hufs did not like Al Qaida. The reason Abu Hufs disapproved of Al Qaida was because he was in Afghanistan during the Russian time, and his skin color was a renounced color in Afghanistan during that time. Sheik Ali Hasam was assassinated, and the rumors are Bin Laden was responsible for the assassination. So, Abu Hufs feels that Bin Laden assassinated Hasam, so that is why he does not like Bin Laden or Bin Laden's organization. Al Qaida was a name we did not know in Kuwait. We just knew Bin Laden as an eccentric millionaire, as a revolutionary. It was not an organization. I knew at one point Bin Laden was living in a grand house with ten or twenty young men sitting outside. But Bin Laden does not look like an organization. Bin Laden did not look like any real threat. He looked like anyone else who liked to make speeches. He is not a person who would do as much as he would say.

So, I told Abu Hufs that all I needed was one day in Afghanistan to videotape and to help out. Abu Hufs said no problem, but he had so many other things to do, for he was planning on staying longer. All I needed was my carry on luggage, which included a change of underwear, my videotape camera, and my medications. I had my things ready to go, and I told Abu Hufs whenever he was ready to go that I would be ready to go. Abu Hufs said we would not be going through Pakistan; we would go through Iran. I told him that would be even better, because I would be in charge of the 1.5 million refugees in that country and I wanted to see those people also. Abu Hufs stated we will be passing through all the customs and so forth. Then we would go to Afghanistan. There were no pauses on the flights from one place to the other, and I was happy with that. Then by the first week of October, Abu Hufs told me he was ready to go. I wanted to leave with him as soon as possible. So, we left about the 3rd of October from Kuwait, through Dubai and

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Tehran, to Masshad, Iran. In Masshad, we stayed at a hotel. A cab came and got us and took us to the border. Our passports were stamped, and the dates I traveled are all in the passport. My passport is here, as evidence, and it shows the dates I left Kuwait and entered Iran. You can go back to it and look at it. When Abu Hufs and I entered Afghanistan, there was no border control, there was no authorities to check anything. There was a guest house for non-Afghanis. Abu Hufs and I went there; they took our luggage and they searched us. The people were not Afghanis, they were not Iranian searchers. It was Arabs that searched us. They took my camera, they took my medications, and they took anything that was open. I was told that the person responsible for checking my items was in Kandahar. I said to the searchers I was going to Kandahar, and they told me fine. I would be able to find my things there in Kandahar. I was told from there, the next morning we should take a bus from Herat to Kandahar. I would be able to take my pictures, make my videotape, go back to Herat, and then back to Masshad, Iran. I took ten days leave from Kuwait Airways for this trip. My ticket was a return ticket for ten days. Everything in my office is still there. It was supposed to be on a ten day leave. I did not leave for an extended leave. I only took hand-carried luggage with me. Anyway, later that night, when we entered Afghanistan, the war had not started yet. Remember, it was not a real risk to enter Afghanistan at that time for many reasons. First, we did not hear the American forces specify a date or deadline for the start of the bombings. Secondly, I was only supposed to be there for one day, and I was leaving right back out. Thirdly, hospitals are not shot at. I was in Kuwait during the bombings in Kuwait. We knew about the strategic bombings from the Americans. I felt safe there, because the Americans were not hitting people rather, they were hitting strategic targets. So, if I am in a hospital for one day, no one is going to hit me there. There was no real threat. So, it was a straightforward, easy decision to make to go into Afghanistan.

I went back to the border city of Herat that night, but the airport was gone. You can check. In my passport, you can check I was there. I had left the Afghani/Iranian borders on that same date. That night was when the first bombs hit. Before I left Kuwait, I did not know there was deadline. But the deadline had passed. It was after September 11th. There was an investigation and there was talk; there was threatening; and there were promises, but there was no action or bombing. So, an extra day would not make a difference. But it happened and I was in Afghanistan, and they bombed the airport. That same night, the Iranians closed their borders to keep out refugees fleeing from Afghanistan. So, they closed the borders on me and I could not go back. I have lower back pain and neck pain. A drive on the off-roads in Afghanistan was not possible for me. All the main roads had been closed, so the only routes were off-roads. You can only imagine how treacherous a trip this was. I had in mind if I went back and told the Government that I was there from the relief organization to help the Afghanis, I was there only to take pictures, and please get me away quickly. I needed to leave. I don't want to stay here. I needed to leave as soon as possible. I have what I need, the video clip, and I needed to leave. I wanted to go to Kandahar; show my videotape to those guys; get my pictures; go to the Kandahar Governor's office, and he will arrange for me to leave. Because the Governor's office had cars with tinted glass, that would go through borders. Something like diplomatic cars. So, I thought that was the easy way out of the country.

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Detainee (continued): That was no big deal. When I reached Kandahar, I was told martial law was in effect. So, no one could come close or speak to the Government officials. I would have been shot on sight if I got too close to that area. I did not get my video camera back. I was told after the borders were closed that the people who seized my items had packed up and moved to Kabul. So, my camera, medication, and everything was in Kabul. I said okay. I can borrow a camera to take more pictures and leave. That was not a big deal. They told me no. The Government officials would not see me and I could not get close to arrange for my transport. Then I was told the Kandahar border was closed for fear of more refugees. There was no other way for me to leave unless I went to Kabul. From Kabul, I was told there were two routes out. This time, Abu Hufs was leading as my escort. I followed him because he knew the country; he knew the area. From Kandahar we went to Kabul. On the way, we were ambushed by highway robbers. However, we escaped without death. We reached Kabul. When we were in Kandahar, we were told to go to the ex-ambassador to Saudi Arabia's residence in Kabul. It is now a guesthouse for Al Qaida. Everyone seemed to know this place. We went there by taxi. When we arrived, we asked for Abu Sulyman and were told he was coming. I told them I needed to get out. I was in Afghanistan to help the refugees. I need to go. I needed to take pictures and leave the country. I am official and I am taking the info I saw to the committee. Abu Hufs told me that was the end of his escort, and he was leaving to go and take care of the reason for his travels. Abu Hufs told me Abu Sulyman would take over and get me out of the country.

Abu Sulyman did not have a residence and was looking for a house. During that time, no one would rent a house to an Arab for fear of being shot or bombed. They would let us stay at their house for a couple of days as a courtesy. So, we were moving from one house to the other every few days, looking for a way to get out. We were then told we had to go to the north to Jalalabad. There was supposed to be a way out from there. So we went to Jalalabad looking for the way out. Now the country is falling. No one believed the country would fall so quickly - within one week. So, you can imagine the chaos that was going on there. When we got to Jalalabad, we were told to go back to Kabul. We went back to Kabul and were told the place was falling and to run away. So we ran away back to Jalalabad. We went back to Jalalabad, which was falling also. We saw in Jalalabad, we saw all the Arabs. There were many people who were Muslim that had left to go to Afghanistan from North Africa and Europe looking for peace and Islam. These people do not want to raise their children in a world of violence. There were hundreds of them. In Jalalabad, all the women, children, and small babies were taken in mini-buses leaving in one direction with young men with machine guns sitting on top. Real disastrous looking. And all the men, no matter how old you were and boys who were strong enough, were inside. We were going in a direction no one knew. The vehicles were full of people who were like luggage thrown on top of each other. We went to a house on the edge of Jalalabad that belonged to a person called Abdul Ghoudous. He turned out to be a very big man in Al Qaida. We took everything in the house with us, and we left because Jalalabad fell. There was no more control. Simply being out on the street was an invitation to be killed. They would kill you on the spot. We walked from there to the baseline edge of the mountains. Those mountains were the

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border mountains known as the Tora Bora mountains. They are on the border of Afghanistan and Pakistan. Because of my health condition, consisting of problems with my neck, back, knees, and my weight, I could not go through the mountains. But I had no choice. I had to walk for about five hours. It was still in the valleys. The group I was with left me because I could not continue walking. I sat down and when the next batch of fleeing refugees came, I caught my breath and continued with them to the next location. There was water there and a kitchen cooking food. I decided to stay there until they found me a way through. I stayed there until Abdul Ghoudous said civilians could not remain in the valley, and everyone had to go up the mountains. They could not secure the valleys anymore. I told them I could not go up the mountains. I cannot walk up the mountain. They said everyone had to go up, and they sent down a mule. The only person that he insisted on sending a mule for was for me. Everyone else had to walk. I was the person from Kuwait that was used to a desk, air conditioning, enjoying food, and being so big. I could not manage. All the way up the mountain, I could hear children; I could hear men; I could see small children walking around. The mountains were filled with civilians fleeing the area. I reached the top of the mountain, sat there, and then could see the chaos that was going on. They did not respect people. It was way above their heads. Everything there had collapsed.

People were arguing over food and things like that. Abdul Ghoudous told me to go and hold down the issue counter. The issue counter is where you sit and you say give. Abdul Ghoudous told me because of my age, no one would scream, shout, or argue with me because of the culture. So he told me to just go and sit there. So I would sit there and say give this person a blanket, or give this person rice, and so forth. No weapons. I did not know the difference between 14.78 or 17.68 ammunition. It was not my business. I was a civilian, and I do not know anything about weapons or such. Abdul Ghoudous told me to be there because my age was enough. Another mule took me over to that place. All I had to do was to stay in the cave; someone would show me a piece of paper stating what they were supposed to be issued, and I would say please issue what you can. And no one would argue with me. Before I went down to that location, I told them I did not know who was coming and they do not know who I am. Would you please help me? So, he sent people to me, and he told them Al Rabia is an old man. These guys were all young men who were in their early twenties. I am about their fathers' ages. They were told not to give me any problems, and to take what was given to them. They replied God's will. So, I sat at the counter, and they would come and I would give them as much as I could. This lasted for a week.

Then Abdul Ghoudous gave the order that everybody go and take as much as we could, because we feared snow was coming. The roads would be blocked. There was also the possibility a bombing would happen, and we would lose all our storage. So, everyone had to take what they had. For another week, I was overseeing six or seven mules. In the early morning, children from the village would come and take the mules, and use them to go to the water spring to fill water jugs to take to their location. They would bring the mules back and leave.

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Detainee (continued): Now after another week, they decided it was time to leave. During that time, I told Abdul Ghoudous I needed to leave. He told me no one was leaving. He said the villages on the other side were not secured yet, and once that had been done, I would be let go. I had to stay like everyone else. I refused to continue to hold the job overseeing the mules. Abdul Ghoudous told me he was not asking me rather, he was telling me. You will earn your keep. This was not time to be nice about anything, because we were at war. So, the bombing started near our location, and it was decided we would withdraw - withdraw with hundreds of refugees. Now, they said it was time to leave. I told them I cannot walk. I need a mule or something to go and leave. They told me sorry, but we don't have any. We cannot give you a mule. After I pleaded with them for a long time, they decided to let me travel with the injured people. I am injured, in a sense, because of my physical condition. The injured people had a shorter route, but it was through a village at the bottom of the valley. That was where the mules came from. That is where, every now and then, we would have a villager or two come up into the mountains selling products to make a little money. So, Abdul Ghoudous said I will take care of you by placing you with the injured, and you will have a safe crossing across the border.

They took two people at a time down the mountain. I came down to the bottom of the mountain, and was told to go to a village outside the mountain. I was told Abdul Ghoudous would meet me there, which he did. I stayed in this village for four to six days. During that time, Abdul Ghoudous said I am sending people to secure any routes so I can send you on. I told him I needed to send a letter to the Kuwaiti Embassy so someone will meet me on the border when I travel. Someone from the embassy would know who I was. Abdul Ghoudous said fine, and that would not be a problem, but first we have to secure a route. Then, I could tell you which route to go to. I said fine, once you have secured the route, I will give you the letter and you can send it so I will have someone from the embassy there. Then one guy from them, of course most people are not tied up because if they were tied up they would be fighting and not walking, so during that time, he said the Northern Alliance took several people as hostages, and stated if they were not given the injured people from the village, the hostages would be killed. So, the remaining injured people were the prize - myself and the other injured gentleman that was walking with me. Some people came one night and said I had to leave. I was taken to Jalalabad. I spent six days in that house. So I got in the car with them, where I was taken to Jalalabad. From there I was handed over to the Northern Alliance. That was the first time in my life I ever wore shackles.

Now, this is my story. I have been here for almost three years. I have been interrogated hundreds of times. I have taken the polygraph. I have taken the CVSA test. More than anyone else in this camp maybe. I would like now to go to the points I am accused of. I will address each point one by one. I thank you for your patience during this inquiry. I will start with the point number one.

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In response to allegation 3(a)(1), that the Detainee traveled to Afghanistan in October 2001:

Detainee: Yes, I did and you know why. I went there to videotape, and I was to go back within a day or two.

In response to allegation 3(a)(2), that the Detainee met with Usama Bin Laden on four occasions during July 2001:

Detainee: It was not July; it was early June. And it was not meeting with Bin Laden. I saw him. This was something I said, it was not gathered by intelligence. I told them about this. I showed them. If anybody who would talk to Bin Laden is a criminal, then take the reporters of CNN and Al-Jazeera. Then anybody just seeing Bin Laden without even talking to him is a criminal - then also take the General. I did not talk to Bin Laden; I just saw him. So, I guess I am in that category in that sense.

In response to allegation 3(a)(2), that the Detainee delivered money to Usama Bin Laden:

Detainee: This is an outright lie, a false statement. First, I had never been to Afghanistan before. I did not build any relations with anyone to start or give anyone any money. You will see if I just jump all the way down to point number seven.

In response to allegation 3(a)(7), that the Detainee was an operator for the Al Wafa NGO and likely transferred large sums of money through a front company:

Detainee: Now, a person doing that is a person hiding and transferring money, not a straight liner. If I can deliver mine straight, why should I go and find other ways? I would say that for them to keep me here, let's stick everything on this guy hoping something would stick. These two points are contradicting. If I am going to give them money by hand, why should I go through a front company or an NGO or whatever? If I did give him money, why should I go through that? I did not go through that. Why should I give him money straight? I hope I am making myself clear to you. Secondly, about the Al Wafa organization. Their chairman is here. He was asked about me. He denied knowing who I was. It is on record. I asked if I could have him as my witness, and now he is refusing to talk. [Note: The detainee requested no witnesses for the Tribunal.] I tell you please look at his record, look at what his interrogator said before he stopped talking. You will find that they asked him about me, and he said I do not know this man. You have other people from Al Wafa here, and they will say they do not know me. I do not know who these people are. I will go back to point number three.

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In response to allegation 3(a)(3), that the Detainee delivered money to Usama Bin Laden:

Detainee: If I gave Usama Bin Laden money, and there are other witnesses or evidence - one of the interrogators told me what would you say if we found a suitcase that had the money. I told him perfect - please take my fingerprints now. I know my fingerprints would not be on the suitcase. If there are witnesses, then I want to see the witnesses. I am sure there are no witnesses. If there are any, they are somewhere here on the camp. I will advise that you will find here some people have been on drugs and some people have become insane. If they said they have someone who said or saw me, please find out and see them for yourselves. You will find that I did not do these things. I would not give money to a man who wants to destroy my country.

In response to allegation 3(a)(4), that the Detainee's name and telephone number were in an address book recovered from the residence where senior Al Qaida operative Khalid Shayk Muhammad was captured:

Detainee: There are two ways for this to have happened or for this phone book to read such. First, Abu Suliyman is a big man. He arranged meetings with everybody. Secondly, Abu Suliyman has my business card. The officials in Kandahar have my card. There were two ways for those people to have my card. Why should they have my card? Well, I would have been in charge of millions of dollars of relief to the refugees. Maybe I am a good target for blackmail in the future. Maybe this has something to do with it. So, this name is not to be thrown away. This name might be useful in the future. That is why these people would have my name and number on hand. I hope this is clear to you.

In response to allegation 3(a)(5), that the Detainee provided coordination and logistical support to Taliban fighters in Tora Bora:

Detainee: There were no Taliban fighters in Tora Bora. Taliban fighters were out fighting. They were not in the mountains hiding or trying to escape. They were fighting for their villages. If some of them did not want to fight, it would be very simple. He does not have to go through mountains or cross the border or anything as such. There was no such thing as a Taliban fighters. The only Afghans, maybe I guess the people who wrote this, meant the boys from the village that I told them about that were coming. Or maybe the villagers that were coming to sell whatever they had. Maybe those were the Taliban fighters to them. I have no idea. Otherwise, there were no Taliban fighters. Also, coordination and logistic support - now I have just been there. I have been to Afghanistan in June for ten days; then, entering in October and running for my life for the next trip. All of a sudden I am a trusted person by the people of that land and the people who hide in the mountains and the people who made the man-made caves and all of this; now they trust me for logistics? I don't have the power to go and see inside any of those man-made caves. As you know, logistics means I had to know what was coming, where it was going, inventory issues, all of these things. None of these things apply here. I have never done any of these things. I had never been to any of these locations. I have

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been asked on the polygraph and the CVSA about these things, and they know I did not do this. Point number six.

In response to allegation 3(a)(6), that the Detainee was present at an Al Qaida meeting in the Tora Bora Mountains in which the topics discussed included the distribution of SAM-7s and other anti-aircraft weapons:

Detainee: Now again points number five and six. Let them decide if I am with the Taliban or am I with Al Qaida. Am I superman to be with everybody at the same time? I was a person who could not walk; I had to ride a mule to go ten meters. Now I coordinated logistic support and held meetings. Aircraft missiles - I think that is too big for a person like me. I do not have any military training. The only military training I had was two weeks in Kuwait. If you would like for me to elaborate on that, I will.

Tribunal President: We can move on.

Detainee: The meeting they are speaking about is what I told them. I asked them to allow someone from each location to come and see my face. That was the meeting that they have turned into an Al Qaida meeting with SAM missiles or whatever. There is no such thing.

I hope I have covered all the points. Is there any point I have missed? I would like to give a final statement, if I may?

Tribunal President: You have covered all seven points.

Detainee: Good. Then if I may, can I finish my statement? How would a person that does not know Afghanistan, does not speak the language, and is not in the proper health, go to the mountains, hold meetings, and arrange support? And, I did not know the locations or anything inside? How can I coordinate between Al Qaida and Taliban when they were friends for a long time? Neither side needed someone like me, who did not know anything, to come and coordinate between them. I am from Kuwait. If I did not like the US, I would not have given the US a \$100 million contract. During my work at Kuwait Airways as an engineer, I had a consignment of spare parts. I could have taken it to Europe; I could have taken it anywhere. But I liked the way the US or American companies were doing business. I helped facilitate this contract. This information was with my interrogators more than a year back. It has never been disputed or argued about. Please do not think of me, because I am in Camp 5, that they have something. If you came here a year back, I would be wearing white because I was in Camp 4. Why was I in Camp 4? Because they had given me the polygraph, they asked me about all these things I am accused of, and I answered truthfully. I have nothing to do with any of this. Then they said no, I was lying. Maybe not in those words, but it was something like that. Then I was given three CVSAs. With the presence of the quality control from the General's office watching. After the third CVSA, they decided to move me to Camp 4. I

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was not moved to Camp 4 for bad behavior. I am too old for that. I was moved to Camp 4, because it was realized I had done nothing wrong.

I told them in the second CVSA to ask me if I lied during my polygraph, or if I tried to manipulate the machine. I said no, I did not lie. The CVSA examiner said I was right, and I did not manipulate the polygraph because my CVSA proved I was not lying in the polygraph. After that, they decided to bring me from Camp Delta to here. When I asked why I was moved to Camp 5, I was told I am an interesting case. I was also told that Camp 5 needed to be operational and military police needed training on how to run this facility when it is fully operational. As you can see now, it is half full. This is just an experiment or a training stage for the people working here. So, I am not here because it was discovered I am the bad guy they were looking for. I am a person who, in May of 2001, felt the entire world was nice - everything was nice. There was no such thing as Al Qaida. There were no problems. I have never been to any station except Kuwait. I had never been interrogated in Kuwait. I am a successful businessman, and happily married with children. I had no problems with anything. Perhaps it was God's will that I saw what I see now. I hope that you will see the truth in what I am saying. I thank you very, very much for your patience. Thank you.

Tribunal President: You have given us much to consider. We are going to take a few minutes to allow the Tribunal Members to read through your statement.

The hearing recessed at 1127 hours. The hearing re-opened at 1137 hours. All parties present prior to recess were again present.

Tribunal President: We have read through your statements. Will you answer questions?

Detainee: Yes, Sir. Of course.

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

Personal Representative: Yes, Sir. I do have questions. I would like to take you back to what you said about the four meetings you sat in with the scholar where Usama Bin Laden was present. You see it says in number three where it claims you delivered money to Usama Bin Laden. You obviously stated you did not and have never delivered money. Have you ever seen anyone deliver money?

Detainee: No. As I explained on the CVSA, I was asked if I had given money to Bin Laden. I said please do not ask me this question as such. Put the question, as have I given Bin Laden money, letters, orders, anything. Don't make the question narrow. I want you to ask if I have given him anything; have I taken from him anything? Did I see anything? Did I see anybody giving him something? No.

Personal Representative: Did you ever see someone give money to Usama Bin Laden?

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Detainee: I did not do it. I did not ask someone to do it. I did not see someone do it for someone else. It is very clear.

Personal Representative: Have the interrogators ever told you about you being confused with someone else who may have given money to Usama Bin Laden?

Detainee: Yes. In the last meeting I had with my interrogator, I was told that it was discovered that I was not the person who gave money to Bin Laden. It was Abu Suliyman who gave money to Bin Laden. Last month, someone testified that Abu Suliyman was the person who gave money to Bin Laden during that time. I was asked if I saw Abu Suliyman give money and I answered no. I was asked if Abu Suliyman went outside with Bin Laden alone. I said when I went with Abu Muldah to say goodbye, Abu Suliyman went and approached Bin Laden. So they left together. What ever happened after that, I do not know. I was told that there is evidence or witnesses that Abu Suliyman gave Bin Laden money, not me.

Personal Representative: Just to clarify, Abu Suliyman was the young man who attended your health club in Kuwait? And he invited you to meet with the host to show you around in Afghanistan?

Detainee: Yes.

Personal Representative: Did you ever train on any weapons?

Detainee: No, Sir. I was shot at on the way from Kandahar to Kabul. We were ambushed and they came with machine guns. No one was injured. When we reached Kabul, I was looking into obtaining a pistol for self-protection. You never know if the whole country is falling. No weapons were offered, and I did not see any weapons for sale. So, I did not buy, see, nor was I offered a weapon.

Personal Representative: So, I assume you never shot a weapon in Afghanistan?

Detainee: No, Sir, definitely not.

Personal Representative: Did you attend any training camps while you were in Afghanistan?

Detainee: No. The only training I had was in Kuwait, the training for every Kuwaiti, when you turn eighteen years old. If you are a high school student, you get two years of training. If you are a graduate, you get one year - except for those who have what is called rare specialties like engineers, oil refinery engineers, and so on. This is because in case of war, these individuals would be manning their civilian positions. So these individuals only receive three months of training. After that, you go back to your normal work. In my case, I was trying very hard. It was a good chance for me to lose some weight. But I injured myself in the first two weeks. I was sent home. I was forbidden

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from entering the exams and classes because of that. In those two weeks, I learned how to march. That was my military training.

Personal Representative: Have you ever at any time in your life committed any hostile acts against the United States or its allies?

Detainee: No. Never. Definitely not. Like I said, I am a person who in Kuwait is known to be pro-American. I gave a US company a huge contract. I was also in favor of buying the latest Boeing triple seven (777) aircraft instead of the European Airbus. While almost all of our fleet is Airbuses, we took the triple seven (777) because I like the way the American companies were. I'd rather buy from American companies because I feel they are faster in operation and they are better in dealing. I am giving you business. I am not doing bad business or bad things to you.

Personal Representative: Just to clarify, Abu Suliyman was your host in Afghanistan? He was your host when you got there, and you did give him the incense burner as a gift? Is that correct?

Detainee: Yes. The incense burner was mine, it was not the real gift. The gift was the holy water of Mecca.

Personal Representative: Abu Suliyman was the one who showed the incense burner to Usama Bin Laden?

Detainee: Yes. He told him that in Kuwait it is used as an incense burner, but it is a hand warmer. It is good for people in the mountains to use.

Personal Representative: But you did not give that gift to Abu Suliyman to show to Usama Bin Laden; he took it on his own to show that incense burner to Bin Laden?

Detainee: It is less than five dollars. So you don't say show this to someone, you know. It is more like here, take this or something like that.

Personal Representative: When that gift was shown to Bin Laden, Bin Laden then said back to Abu Suliyman he wanted one hundred pairs of woolen underwear?

Detainee: Yes. I thought Bin Laden was talking to me. That is why I was embarrassed. I asked Abu Suliyman why did he embarrass me in doing so? Then Abu Suliyman said no, he was talking to me, Abu Suliyman.

Personal Representative: This is my last question. Have you ever given any money to Al Wafa or any other organization at any time?

Detainee: No, Sir. Al Wafa did not exist during my first trip. There was no such thing. I had never seen them. There were no banners or posts or buildings identifying

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them as Al Wafa. When I went to Kabul, I saw signs on hospitals, on water wells, and so on. I met their president once at dinner in a clay house outside Kabul. I had never been to that office in Kabul. Kabul is the capital city. There is running water and toilets and such in the buildings. Why should they go to a mud house outside and call it their office, I have no idea. But I went there one night; I had dinner and left. When I was there I saw their president. I did not talk to him. We did not exchange cards. We did not do anything as such.

Personal Representative: And the dinner you are referring to, these are the same ones with your travel companion, the religious companion?

Detainee: No, no, no. That is from the second trip. The religious companion was my first trip. This trip was during the days I was in Kandahar every couple of days in one house until they found us a way out. We were invited to dinner at one house and that was it.

Personal Representative: So, you saw this person during your second trip?

Detainee: Yes. Not on the first trip. When I was there I did not know it was Al Wafa. I was not told this was Al Wafa headquarters.

Personal Representative: Thank you very much.

Tribunal President to the Personal Representative: Does that conclude your questions?

Personal Representative: Yes, Sir, that concludes my questions.

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

Recorder: No, Mr. President.

Tribunal President: Do any Tribunal Members have any questions for the Detainee?

Tribunal Member: Could the Kuwaiti Government officially attest to your relief work efforts? I saw in your Wife's letter some documentation that relates to this.

Detainee: Yes, Sir. There is so much. I was even in the news during the Kosovo crisis. I was with the Kuwaiti relief work with the UN and the ICRC and the Red Cross. The news media, the Kuwaiti Corner news agency, I was in the news every night for maybe two weeks. It is not just the Government, it was even on TV in Kuwait.

Tribunal Member: During your statement, you said that on your second trip to Afghanistan you were taking ten days leave from Kuwaiti Airways. I thought you had already arranged for your one-year leave?

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Detainee: The secondment letter starts when the President of the Airlines signs the letter. Then, I no longer go to Kuwait Airways, I would go to my work in Peshawar. During that time I was still an employee of Kuwait Airways, and I still would go in the morning and punch my time card. To take the leave, I had to sign the leave form.

Tribunal Member: In reference to point six on the statement, you were not present at any meetings where they discussed SAM-7s?

Detainee: Definitely not.

Tribunal Member: During your statement you said some of the folks you were with when you were going through the Tora Bora region, specifically the gentleman who said you have to earn your keep now, you said they were not Taliban fighters because fighters would not be in the mountains. To the best of your knowledge were any of those folks Al Qaida? The reason I ask this is because some of those folks you mentioned turned out to be Al Qaida. Were any of those folks with you?

Detainee: Okay. Now the people who are leaving the Jalalabad area were everybody. Everybody was fleeing. Everybody is running for their lives. Now which group is there, there is only the Tora Bora mountain area. In Tora Bora there were all kinds of fighters. There is not just Al Qaida. As I said, Abu Hufs was not going to Al Qaida. He was going to fight but not with Al Qaida, but with some other people. There are so many groups. There is no law in that land. Anyone can do whatever he wants. Whatever groups can be together, they can be together. Do they have cards saying what group or they are fighters? No. Are they fighters? Yes, they are fighters. Who are they? I don't know. Would I be able to say this person was Al Qaida or not? I was not able to say that. But some of them were fighters, and most of the fighters were the immigrants and the people who were going to teach Islam. Because in Afghanistan, an Arab in Afghanistan, was either a fighter, an immigrant, a teacher teaching the people there because the illiteracy was very high, and of course, the relief workers. These were the four kinds of people. So in this case, in the mountains while I was with them, I could hear children crying; I can hear someone telling his father why are we here or whatever; or with his mom and things like that. This was really distressing to see them here.

Tribunal Member: To your knowledge, the gentleman who told you to earn your keep, do you know if he was Al Qaida?

Detainee: I would say he was because he was the biggest man that we saw. But he did not tell me I am Abdul Ghoudous, I am a member of Al Qaida. He is the big guy in the mountain. So, if he said do this or do that, you had to comply. Otherwise, you move.

Tribunal Member: When you said that you worked with the relief organization prior to the first trip, what were the relief organizations you worked for and what were your positions with them?

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Detainee: First, I do not have a position because I do volunteer work. But because of my education, they don't just throw me with the small guys. I always go to the presidents of the relief organizations. This is also important, because I do not belong to any relief organization, that is why I was a good choice for the Joint Relief Council. If I belonged to one organization, then all the credit would go to that organization or that relief society. I don't belong to anybody, so I am for everybody. I work for everybody at the same time. I have done much relief work in Kuwait. We have so much red tape in adopting orphans. I streamlined a joint effort operation for adopting orphans. As a result of that, more than 7,000 children were adopted.

Tribunal Member: What was that called?

Detainee: It was one of the operations. It was for the Bosnian refugees. Then in Kosovo, we were at the borders working with the UN military. Those were the people taking care of all the transportation and things like that, the helicopters and so on.

Tribunal Member: And you were there with them?

Detainee: Yes. Also I have helped with the dialysis center that was a part of the relief organizations in Bangladesh. I have worked on the flood in Bangladesh.

Tribunal Member: What would you do with them? Were you just contributing money?

Detainee: No. I don't do anything with money. I am helping. My masters is in management. I would tell them how to do the job right. In Bangladesh I gave them a short course in managing, decision-making, communications skills, things like that. They did appreciate it. The relief organizations are usually people who are living there; they are not necessarily people with education in management. Decision-making is not something they normally have to do. They may say I feel it is right this way. I also went to Cambodia. There is an orphanage there for 400 orphans. There was a terrible system in place there. I stayed with them for about ten days. I did not change anything. I just reported the condition to the organization in the Kuwaiti society. They made the changes. I was told everything went okay and the system was advanced; the students are doing better. The orphanages usually have like fishing ponds to produce fish and things like that. So I helped in organizing these things for them.

Tribunal Member: Are these big name charities? What is the organization? How do you do that? What was your vehicle for making this happen that you volunteered for it?

Detainee: First, Kuwait is a very small country. Relief organizations, there are four of them. One for the solidarity movement; One for the Islamic brotherhood; One for the, I would say for the Asufi [inaudible]; and the fourth is the Kuwaiti Government, where the ex-minister is the head of, and he is also the head of all the relief organizations. And there are other small relief organizations that would do work for orphans or things like that inside Kuwait. The major relief organizations in Kuwait, they work inside Kuwait

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and work outside Kuwait. The work outside Kuwait is divided into regions. Each region would take care of the country in that region. They would build mosques, repairing houses, adopting children, and things as such. But to work on a large scale like what happened in Afghanistan, like what happened in Bosnia, like what happened in Kosovo, this is a job for the Joint Relief Council. Everybody will pitch in on the Council, and the Council will appoint someone in those locations and they will take care of that. I have never been in charge of any of those locations. This was my first opportunity for me to go to Peshawar.

Tribunal Member: How well did you know Abu Suliyman before he approached you to go to Afghanistan?

Detainee: Abu Suliyman, I knew him only from the club. I joined the club as a manager and he was already there. I did not finish a whole year in the club before this whole problem happened. He is just a member of the club. Nothing more than that.

Tribunal Member: Did you know him very well at all?

Detainee: No. It was just the courteous hello and the usual talk of a manager to his members. I attended a dinner that he hosted for his brother. He invited everybody in the club, and I was one of the people he invited.

Tribunal Member: Did you know he was associated with Al Qaida at the time?

Detainee: Definitely not. You see there was no such thing as Al Qaida in Kuwait.

Tribunal Member: Did you know that he was associated with Usama Bin Laden?

Detainee: Definitely not.

Tribunal Member: Did you know what his job was or what he did?

Detainee: No, I don't think he has a job. I think he is a student. When he went to this house or room in Kandahar, he was trying to be student scholar. He had so many books. It is something like a seclusion for him to study. When I met him for the first time, he was not with Al Qaida, in their guesthouses, or with Bin Laden in Bin Laden's house. No, he had his own residence away from everybody. As I told my interrogator, he was very clearly a trustworthy person because he is a very quiet person. He does not talk. I went there and I did not know Abu Muldah was there to see Bin Laden. I was not told that. I went there to see the refugees, and was told fine, come and see them. I did not know Abu Muldah had a different agenda. But they are so secretive; no one was telling me anything. So, when Abu Suliyman was in the club, he did not say I was with Bin Laden or with Al Qaida. He was there training like everybody else.

Tribunal Member: But he did tell you about the person that was going to Afghanistan?

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Detainee: Yes. When I told him I would try to go to Afghanistan by myself, he said Abu Muldah was going also on some sort of summer vacation.

Tribunal Member: When you were talking about the logistical support, and the fact that it was unrealistic to say you would be put in charge of the logistical support because you had only been there a few days and there was not time to develop trust - but, you developed trust in someone you really did not know or know anything about, and you went to Afghanistan with this person?

Detainee: You see the first trip I did not need to develop trust or anything, especially as there was no war. There are no weapons in the streets. The drug fields had been burned. So claims like this, they had to be true or otherwise the first moment I would see he was lying, he would not be able to help the people. Abu Suliyman wanted me to go and help the people. Because if I went and saw that all this was a lie, then I would not have trusted him. But it was so clear and so obvious; there were no weapons in the streets. There was no war. And there was a genuine problem. That is why there was no need to trust or not trust. To me, why not trust him? I did not see anything bad from this guy before; he is in the club just like everybody else. So, why not? Fine, I will go. Why did I go to Cambodia? Was there a war there? Why would I go to any other place? Why did I go there? People would tell you go and see. So, you go and see and if you find there is a need in that place; you will react to that. So, it is something that is natural in Kuwait. Everybody goes and sees for themselves what people need. That is how the Kuwaiti relief organizations work. Even though we are a lot smaller than Saudi Arabia, we far exceed their operations all over the world. Because we go and see for ourselves, and the people trust us that we are not bad people. We go to help. We are not there to take, but to give.

Tribunal Member: I also got the impression, by the way you have spoken, you are a man of stature in Kuwait.

Detainee: I hope so.

Tribunal Member: With you position at the airline and in also with the club, you were well to do. Would that be a fair assessment?

Detainee: Yes, because Kuwait is a small country. My father is well known. My brother is the number one ophthalmologic surgeon in Kuwait. All of my family is well known people. Even my masters degree was on a scholarship from one of the royal family. We are not anybody, but we are not everybody. My family is respectable, good people in Kuwait.

Tribunal Member: Even more so now and how you entered Afghanistan the first time, being a respected businessman from a respected family, why would you not say as you

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are going through I am not going this way? I want to go through legitimately or we are not going to go at all.

Detainee: That is because we were on the way. We were on the way. And that was how Afghanistan was. That was how Pakistan was. When we reached the airport in Pakistan, when he opened the passport, he asked for some money. Everything was there, he had the visa, but still he was asking for something. In that country, you had to pay.

Tribunal Member: Why did you have to go through Pakistan? Since there was no war, why couldn't you just fly directly into a city in Afghanistan and then travel internally?

Detainee: I work in Kuwait Airlines and we fly Kuwait Airways. Kuwait Air does not fly into Afghanistan. The closest would be Lahor airport in Pakistan.

Tribunal Member: So, you could not fly another airline?

Detainee: No. I don't think they have any international flights in Afghanistan. I don't think so. Yes, it was a terrible way of entering Afghanistan. That is why the second time I made it very clear I was not going to go through that again. When I crossed and I saw Abu Suliyman, I told him that this was not a respectable way to take us into Afghanistan, being in my position and so on and so forth. But also there was a scholar and they made the scholar ride the bike. That was not right.

Tribunal Member: After you indicated the airport in Herat was bombed and you traveled a difficult trip to Kandahar in attempts to see the Governor, you indicated they would have vehicles that were sufficient to get you out of there. Wasn't it unusual that you did not insist on that type of travel into Afghanistan during the first trip?

Detainee: I did not know there was such a thing on the first trip.

Tribunal Member: Just going through diplomatic channels on such a big issues. You seemed to be going through very small channels.

Detainee: It was not a diplomatic channel because, first of all, there was no diplomacy between Kuwait and Afghanistan. Secondly, I did not know of such ability. This tinted car business is a great point to answer one of the points I gave Bin Laden money. If I were bringing Bin Laden money, don't you think he would have sent me a car instead of going this way of riding the bike? He would have sent me that car, and I would have had the money in the car with me. I would go inside, give him the money, no questions asked. Right? That did not happen. And on the way out, if Bin Laden thought we were good prospects, or it was a good chance that he may have something from us, maybe they could have managed to give us a ride back in one of those nice tinted cars. But no. We went back in a taxi. So, it seems we did not fit what Bin Laden expected.

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Tribunal Member: The holy water, was that something you presented to Usama Bin Laden?

Detainee: No.

Tribunal Member: That was also to Abu Sulyman?

Detainee: Yes, because it was an inexpensive gift. It was a symbolic gift. You would not give this to someone you do not know. This man helped me to go and see the conditions of the refugees. So, it was a token of appreciation to give holy water.

Tribunal Member: Where did you buy the holy water?

Detainee: In Kuwait.

Tribunal Member: How did you get this holy water across the border?

Detainee: I carried it. It was a two-gallon bottle with a handle.

Tribunal Member: So you went across the border on a bike, but the taxi came across with your things also?

Detainee: Yes. The bike was a four or five minute trip, maximum. Nothing more than that. We saw where we were to go. The only thing the escort told us was we had to get off there, because a very bad man was manning the checkpoint and he would do anything to get money. Maybe they had an experience with this person before and knew to go through that way.

Tribunal Member: Even as a man in your stature, if they asked for money you would have the money to give them?


Detainee: I would.

Tribunal Member: You would?

Detainee: I would.

Tribunal Member: You would have the money to give them; it would not have been a problem? This strikes me as being so unusual.

Detainee: I would give them, but how much do I give them? This guy wanted money; then he would tell the other guys after and the ones before. Remember, I was not there to be hassled by those people. I was there to see the refugees. If I had another way to get to the refugees other than going through those people asking for money just like that, I would have.

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Tribunal Member: When you went on the second trip to get the pictures, again why would you not just ask someone else to go and take the pictures, or ask the recipients to send you the pictures back?

Detainee: Send them how? There was no way to send anything from there to the outside.

Tribunal Member: What about sending someone else to go get the pictures and bring them back?

Detainee: I was not appointed yet. So, I did not have people working for me to go there. Or, should I have sent someone from Kuwait Airways? There was only me.

Tribunal Member: So it was just you?

Detainee: Yes, until I got the job. Then, I will have all the people that I need.

Tribunal Member: But didn't you already have your secondment letter?

Detainee: No, not yet. It was not signed.

Tribunal Member: While you were considering your second trip, was Abu Hufs an associate of Abu Sulyyman?

Detainee: He would train within the club. He worked and chatted with him. He was in the gym.

Tribunal Member: So, he worked out with Abu Sulyyman?

Detainee: Yes.

Tribunal Member: You indicated on your trip Abu Hufs did not want to see Abu Sulyyman because he did not like him.

Detainee: No, no, no. I said he did not want anything to do with Al Qaida because he did not approve of Al Qaida.

Tribunal Member: Correct, because Bin Laden had assassinated one of the leaders Abu Hufs previously worked for?

Detainee: He was a scholar.

Tribunal Member: Even though Abu Hufs did not like Al Qaida, he associated himself with Abu Sulyyman?

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Detainee: Abu Sulyman is just another guy in Kuwait. It does not mean because this guys works with or knows Al Qaida, it does not mean everyone knows that much about him. This guy was very secretive, and he did not talk that much.

Tribunal Member: *You never fought or carried arms against the United States or its coalition partners?*

Detainee: No.

Tribunal Member: Did you ever instruct, plan, or direct any one else either as an Al Qaida member or any one else to engage in any of those activities?

Detainee: No, Sir. I was in Kuwait during the invasion. I did not carry a weapon in Kuwait.

Tribunal Member: When you were in Afghanistan on your second trip, did you direct or plan or have any type of association?

Detainee: No.

Tribunal Member: During that time when you were in the Tora Bora mountains, and you were issuing items?

Detainee: I did not issue anything. I did not know where they went to get them.

Tribunal Member: Did you sign a piece of paper; what were they seeking you to issue?

Detainee: They would ask for food stuffs, canned food, dried beans, things like that. Shoes, stoves for the man-made caves, things like that.

Tribunal Member: Some of these people were males in their early twenties, who would not be able to cause you any problems?

Detainee: Yes.

Tribunal Member: *Were they fighters?*

Detainee: When they came carrying weapons, yes. Not all of them, but some of them.

Tribunal Member: Who would they have been fighting with? Were they fighting the Northern Alliance and the coalition forces?

Detainee: In the mountains, you are not fighting anyone. We were just sitting there and getting bombed. This is so ridiculous about what is going on. Those mountains were not for fighting. Those mountains were for running away. Those mountains were an escape

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route outside the country. It was not a place to fight. There was no one to fight in the mountains.

Tribunal Member: But were the Northern Alliance forces up there? You were not issuing stuff to Northern Alliance forces?

Detainee: I don't know, I don't think so.

Tribunal Member: So they could have been Al Qaida, or persons that were fighting together with Al Qaida?

Detainee: That would have been everyone in the mountains. Anybody would come forward because that was where the food was. It was not my job to ask each person if they were Al Qaida or a civilian or whatever. If you had the paper, I gave whatever to you.

Tribunal Member: Who was issuing or giving out the papers?

Detainee: Abdul Ghoudous.

Tribunal Member: Was Abdul Ghoudous Al Qaida?

Detainee: He did not tell me that. He was the big man of the mountain. If he is, he is. But those are the people who ruled, those giving us the way out.

Tribunal Member: When the big man was having his meetings, did you attend any of those types of meetings?

Detainee: No, Sir, not a single one. I don't even know if they had any of those types of meetings in that place.

Tribunal Member: How was it that you were captured?

Detainee: When we were leaving and as we reached the bottom of the mountain, the injured people, we entered the village.

Tribunal Member: They turned you over to the Northern Alliance?

Detainee: That is right.

Tribunal Member: Did any of the people you were with have weapons at the time you were turned over?

Detainee: Yes. When we were turned over, the people turning us over had weapons. And they turned us over to the Northern Alliance.

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Tribunal Member: The people that turned you over, were they Afghani civilians?

Detainee: They were Afghani villagers.

Tribunal Member: They were armed?

Detainee: Yes, everybody now was armed. Everybody in that country was armed.

Tribunal Member: Thank you.

Tribunal President: You mentioned at one point after 9/11 nobody knew who did it?

Detainee: Yes.

Tribunal President: I thought Bin Laden came out and took credit fairly shortly after the event?

Detainee: What I saw was the news in Kuwait. I was there in Kuwait when it happened. When I first saw it, I thought it was a movie or something. They closed all the airspace. I thought this was going to be the third world war. It was something huge. People were talking it may have been the Chinese, or Russians, or something like that. Then, I do not know if Bin Laden said he did it. We did not know who was claiming it.

Tribunal President: I am not sure of the time, but it did not seem too long after the incident.

Detainee: Well, ten days after. Something like that. Yes. Because from September 11th to the day I entered Afghanistan was about three weeks. In those three weeks, I was busy doing my research, preparing what I wanted to do, and so on. Then I told Abu Hufs whenever you are ready to leave, I am ready. Abu Hufs was ready to go on the 3rd of October. If he had been ready before that, I would not be here.

Tribunal President: So on the 3rd of October when you started your trip, you did not know that Al Qaida and Bin Laden were responsible for the terrorist acts of 9/11?

Detainee: Oh, yes.

Tribunal President: You did know.

Detainee: Oh, yes. Then, as I said, his fangs started showing. When Bin Laden said I did not commit the massacres in Africa but it did not shame him; then saying look at the big picture if Kuwait would fall and other massacres would happen. Something like this would happen; this guy meant what he was talking about. He was going to do whatever he likes; so, you keep away from this guy. This guy wants Kuwait just like any other

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country. I was not going to risk my life, my future, my children, my business for a person who wants to destroy. That is why I said I did not want to do anything with them. I wanted to go through my own route, everything clear and straight. I would not be doing anything with them.

Tribunal President: You left Kuwait on the 3rd of October?

Detainee: I believe so, yes.

Tribunal President: When did you get captured?

Detainee: I wouldn't know the exact date. But it was in the end of Ramadan. It was during the feast of Ramadan.

Tribunal President: So you went from Herat to Kandahar?

Detainee: Yes.

Tribunal President: Do you know when you were in Herat approximately, or when you were in Kandahar?

Detainee: I left Kuwait on the 3rd of October. I spent one or two days in Dubai. Then I went to Tehran to Masshad which took one day. Then I crossed the border and spent one day in Herat. Then, the next morning I departed out to Kandahar. I spent a couple of days in Kandahar.

Tribunal President: So, what are we up to now? Are we up to the 10th of October? Had it been a week?

Detainee: It is a week. After a couple of days in Kandahar, from there maybe a day in Gandiz. Yes, because after we got shot at, the car radiator was damaged. So we had to stop and fix the car. Then the next day we continued on to Kabul. In Kabul, I don't recall the number of days I was there. We moved from one house to another. We spent a couple of days in each house. We visited five or six houses. Then we went to Jalalabad. Then we went back to Kabul. As I said, I am a person with a desk job. I like everything to be organized. In a situation like this, I lose track. I could not focus. I could not make a proper decision when I had to make an immediate decision. When we drove from Kandahar to Jalalabad, if the man said go, I went. I did not want to give my opinion.

Tribunal President: I know you are very organized. I know you have a masters in management. I just thought you might have been able to keep track of the time of where you were.

Detainee: It was chaos. And when you get shot at, you do not try to keep the time.

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Tribunal President: When did you arrive in Tora Bora? When were you in the mountains?

Detainee: I continued on after we were captured for some time. Then it was Christmas when we were in the vicinity in Kabul. I would say a month before that I was captured.

Tribunal President: So, it was late November?

Detainee: Something like that, but please do not take my word for it. I believe they have the date somewhere in the file.

Tribunal President: Now, you left Kandahar to go to Jalalabad?

Detainee: No, to Kabul.

Tribunal President: You went to Kabul to meet Abu Sulyman?

Detainee: Yes.

Tribunal President: Did Abu Sulyman go with you to Jalalabad?

Detainee: Yes, he did. Abu Sulyman was my escort from now on because Abu Hufs was no longer with me. I told him you have to get me out. So I was dependant on this guy to do whatever he had to and get me out of Afghanistan to go back.

Tribunal President: Did he leave Jalalabad with you to go to Tora Bora?

Detainee: Yes, but not with me. We were no longer together. I know I saw him again about half the way to Tora Bora, but from there on I did not see him.

Tribunal President: You mentioned Tora Bora was not for fighting, it was for hiding?

Detainee: Yes. That was common sense. But if they were there as fighters for something else, then I do not know about that. But for me and for other people, this was an escape route to get out of the country. Because it is the border between Pakistan and Afghanistan. That was the only way to get out.

Tribunal President: It was also the location of one of the biggest battles of the war.

Detainee: Yes. Because that was where everybody was headed towards and ended up. There was no other route. Everybody had to go to that spot. So that was the spot.

Tribunal President: But you saw no fighting when you were there?

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Detainee: No one could fight in there. To fight what? There was only the aircraft there. They told me to get out because something would happen down there. That is a good point. Maybe something happened there that I don't know about. Like I said, the mountains were huge and if something happened in the valleys, then that does not necessarily mean the people on top will hear.

Tribunal President: I understand. But again it was the site of a major battle during the war. At that time, there was war up in the mountains.

Detainee: Up in the mountains, there was bombing night and day. That I know. But for fighters to shoot and to shoot back at, no there was nothing as such in the top of the mountains.

Tribunal President: Now that we all have asked questions, we will give you one last opportunity to present evidence. So, Fouad Al Rabia, do you have any other evidence to present to this Tribunal?

Detainee: When asked earlier, I swore by God I would tell the truth.

Tribunal President: Personal Representative, do you have any further evidence to present to this Tribunal?

Personal Representative: No, Sir. I do not.

Tribunal President: Recorder, do you have any further evidence to present or questions?

Recorder: No, Sir. I do not.

Tribunal President: Any Tribunal Members, last opportunity. Any questions?

Tribunal Member: Are you or have you ever been a member of Al Qaida?

Detainee: No, Sir, definitely not - neither Al Qaida nor other organization. No Al Qaida.

Tribunal President: All evidence having been provided to this Tribunal, this concludes this Tribunal session.

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AUTHENTICATION

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

[REDACTED]

Colonel, US Army
Tribunal President

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DETAINEE ELECTION FORM

Date: 27 August 2004

Start Time: 0800

End Time: 1030

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? NO Language? FLUENT ENGLISH/ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee indicated that he participate in the Tribunal Process and will make a sworn oral statement. He will take his own Muslim oath and does not want it administered by the Recorder, who is not Muslim. He requested to have the cuffs removed from his hands for the Tribunal due to back problems--the cuffs force him to hunch over which causes him discomfort.

Personal Representative: [REDACTED]

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Exhibit DA

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Recorder Exhibit List
For
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Request for Redaction of National Security Information 06 AUG 04	UNCLASSIFIED
R3	FBI 302 dtd 06/07/2003	FOUO//LES
R4	CJTF GTMO IRR 6 034	SECRET//NOFORN
R5	JTFGTMO MFR dtd 20030523	SECRET//NOFORN
R6	JTFGTMO MFR dtd 20030414	SECRET//NOFORN
R7	CJTF GTMO IRR 6 034 0096 04	SECRET//NOFORN
R8	CJTF GTMO IRR 6 034 0537 03	SECRET//NOFORN
R9	CJTF GTMO IRR 6 034 0451 04	SECRET//NOFORN
R10	JTFGTMO Baseball card	SECRET//NOFORN
R11	JTF Analyst Support Package	SECRET//NOFORN
R12	Executive Summary undtd	SECRET//NOFORN
R13	Untitled Document dtd 24 October 2003	SECRET//NOFORN
R14	[REDACTED]	SECRET//NOFORN
R15	Detainee Information 14 Feb, 2002 - 21 June, 2003	SECRET//NOFORN
R16	MFR - Receipt of Allegation - dtd 01 September 2004	SECRET//NOFORN

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Combatant Status Review Board

25 August 2004

TO: Personal Representative

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal – Fouad Mahoud Hasan (Al Rabia)

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 directly supported hostilities in aid of enemy forces fighting against the United States or its coalition partners.

a. The detainee provided material support to the Taliban and al Qaida.

1. Detainee traveled to Afghanistan in October 2001.
2. Detainee met with Usama Bin Laden on four occasions during July 2001.
3. Detainee delivered money to Usama Bin Laden.
4. Detainee's name and telephone number were found in an address book recovered from the residence where senior al Qaida operative Khalid Shaykh Muhammad was captured.
5. Detainee provided coordination and logistical support to Taliban fighters in Tora Bora.
6. Detainee was present at an al Qaida meeting in the Tora Bora mountains in which the topics discussed included the distribution of SAM-7s and other anti-aircraft weapons.
7. Detainee was an operator for the Al-Wafa NGO and likely transferred large sums of money through a front company.

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

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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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U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN 

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 marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². 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.

¹Redactions are marked by means of pink/blue highlighter on the OARDEC provided FBI document.

²See Executive Order 12958 

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The following letter was translated by the Detainee, Fouad Mahoud Hasan (Al Rabia), and verified by OARDEC Linguist 02.

"This is an ICRC letter from my wife to me written and dated on May 7, 2002. It says the following:

"My beloved husband Fouad, Greetings. I hope you receive my letter and that you are in good health. Our children are all OK and we lack nothing other than your presence among us.

"Fouad, this is the seventh (7th) letter I have written to you personally, other than the letters from my mother-in-law and your sister Noria. Hopefully some of it will reach you in good health and well being.

"Do your best in your worship and sublication. Allah willing, may He relieve you from this sad ordeal and may He grant you a speedy release. As for us, the children are OK and they are praying for you after the call for prayers and when it rains. They are always asking about you and your condition. As for their studies, they are doing very well and [REDACTED] is now doing his final and [REDACTED], Allah willing, will start in two weeks.

"Fouad, by the way everyone is working hard to collect your papers that may relieve you of your ordeal. Our hope in Allah is great and we trust everything will work in your favor, Allah willing. The Government is also helping us and is sparing no effort to prove your relief work. Fouad, all papers and documents that proves that you are a man working in charity and helping the needy and refuges are ready and have been submitted to the officials.

"I hope that Allah will make things right, Allah willing. All the children and the whole family send their hello. Good-bye and Allah protect you."

Signed: [REDACTED] (The mother of his oldest son)
Addressee: My husband

The following letter was translated by the Detainee, Fouad Mahoud Hasan (Al Rabia), and verified by Linguist 02.

"This is an ICRC letter from my wife to me written and dated on May 7, 2002. It says the following:

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"Do your best in your worship and ^{subliation (F)} ~~subliation~~. Allah willing, may He relieve you from this sad ordeal and may He grant you a speedy release. As for us, the children are OK and they are praying for you after the call for prayers and when it rains. They are always asking about you and your condition. As for their studies, they are doing very well and [redacted] is now doing his final and [redacted] Allah willing, will start in two weeks.

"Fouad, by the way everyone is working hard to collect ^{your papers (F)} ~~documentation~~ that may help you in your situation in this difficult time. Our hope in Allah is great and we trust everything will work in your favor, Allah willing. The Government is helping us and is sparing no effort in providing ^{your papers (F)} ~~all to prove that you are~~ ^{documentation that proves you were conducting charity work for the} ~~documentation that proves you were conducting charity work for the~~ refugees and needy people.

"I hope that Allah will make things right, Allah willing. All the children and the whole family send their hello. Good-bye and Allah protect you."

Signed: [redacted] (The mother of his oldest son)
Addressee: My husband

I have read the translation and agree it is accurate.

Signature: [redacted]

Date: 3-9-2004

relieve you of your ordeal also (F)

your papers (F) relief your future work. # you are

(F) Fouad, all papers and documents that proves that you are a man working in charity and helping the needy and refugees are ready and have been submitted to the officials.

INTERNATIONAL COMMITTEE
OF THE RED CROSS
GENEVA - SWITZERLAND



وكالة البحث المركزية
اللجنة الدولية للصليب الأحمر
جنيف - سويسرا

FAMILY MESSAGE رسالة عائلية

SENDER المرسل

JTF/JDOG S-2

ICRC NO. NANTA-NAMO BAY, CUBA

Full name الاسم الكامل رقم الصليب
Family Name اسم العائلة
Mother's name اسم الأم
Date of birth تاريخ الميلاد
Home Address عنوان السكن
Postal Address العنوان البريدي
Telephone رقم الهاتف

ADDRESSEE المرسل اليه

ICRC No. 1837 - 010030 رقم الصليب

Full name الاسم الكامل
Family Name اسم العائلة
Mother's name اسم الأم
Date of birth تاريخ الميلاد
Home Address عنوان السكن
Postal Address العنوان البريدي
Telephone رقم الهاتف

CLEARED BY U.S. FORCES

Please write very clearly

الرجاء الكتابة بخط واضح جدا

Fouo

Detainee Tested by INSCOM Examiners During Period 15-26 Aug 2003

#	ISN	Detainee (Last Name) First	INSCOM Quality Control Polygraph Results	Remarks	HQ #
1	[REDACTED]	[REDACTED]	Deception Indicated	Did not verify identity	0650
2	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0651
3	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0652
4	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0653
5	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0654
6	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0656
7	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0657
8	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0658
9	[REDACTED]	[REDACTED]	No Opinion Refused Test	Refused to undergo testing	0659
10	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0662
11	[REDACTED]	[REDACTED]	No Opinion Refused Test	Refused to undergo testing	0663
12	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0664
13	[REDACTED]	[REDACTED]	No Opinion Refused Test	Refused to undergo testing	0665
14	[REDACTED]	[REDACTED]	INCONCLUSIVE	Did not verify Identity	0666
15	[REDACTED]	[REDACTED]	No Opinion Refused Test	Refused to undergo testing	0668
16	[REDACTED]	[REDACTED]	No Opinion Refused Test	Refused to undergo testing	0669
17	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0670
18	[REDACTED]	[REDACTED]	No Deception Indicated	Verified Identity	0671
19	[REDACTED]	[REDACTED]	INCONCLUSIVE	Specific Issue Test	0655
20	[REDACTED]	[REDACTED]	No Opinion Refused Test	Specific Issue test. Refused to undergo testing	0667
21	[REDACTED]	[REDACTED]	INCONCLUSIVE	Specific Issue Test	0660
22	[REDACTED]	[REDACTED]	No Opinion Refused Test	Specific Issue test. Refused to undergo testing	0672

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Fow

Detainee Tested by INSCOM Examiners During Period 15-26 Aug 2003

Fow

MAJ (H)

From: Taylor, David L. COL (H)
Sent: Friday, August 13, 2004 10:00 AM
To: JTFGTMO-OARDEC-ALL
Subject: FW: (U) CSRT using CVSA results

Classification: UNCLASSIFIED
Caveats: FOUO

read and heed as necessary
Thanks

DAVID L. TAYLOR, Colonel, USAF
OARDEC OIC
8-4041

-----Original Message-----

From: [REDACTED] CIV (H)
Sent: Friday, August 13, 2004 7:49 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: (U) CSRT using CVSA results

as a matter of fact, I overheard one of the OARDEC members talking about CVSA yesterday. I explained there were many reliability issues surrounding this, but I didn't know if they were going to move forward with their request. Nevertheless, I will ensure this gets pushed through to Col Taylor and subsequently passed along to the rest of the OARDEC crew.

R [REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: Friday, August 13, 2004 7:39 AM
To: [REDACTED] (E-mail)
Cc: [REDACTED]
Subject: (U) CSRT using CVSA results

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

Information has filtered down to [REDACTED] (CITF Polygraph coordinator) that OARDEC is requesting the CSVA (Computer Voice Stress Analyzer) results used by JTFGTMO in their interrogations. The thing with this is that OSD (specifically the Under Secretary of Defense Stephen Cambone) has severely limited the "official" utilization of the procedure to only as a "prop" to elicit information. Utilization of the CSVA as a "Truth" credibility assessment has been denied by OSD and no official reports indicating the veracity of the subject are to be released. This could pose problems for OARDEC if those unofficial reports by JTF-GTMO are entered into the tribunal process (or used in an manner actually), as tainting the process. If this is true, highly recommend OARDEC not pursue this angle, as OSD policy has specifically indicated the technology is not authorized. The only authorized instrument/technology for statement verification is the polygraph. The points of contact at OSD on this matter are [REDACTED] (DUSD, CI&S) - [REDACTED] or e-mail [REDACTED]. Also [REDACTED] CIFA [REDACTED] or e-mail [REDACTED] can you verify that OARDEC is in fact requesting these CSVA reports from JTF-GTMO?

Thanks
[REDACTED]
[REDACTED]

Office of Administrative Review of Detained Enemy Combatants - CITF LNO
Comm - [REDACTED]

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

Classification: UNCLASSIFIED
Caveats: FOUO

Personal Representative Review of the Record of Proceedings

I acknowledge that on 14 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

14 Sept 2004
Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (6)