

~~UNCLASSIFIED//FOUO~~



REPLY TO
ATTENTION OF:

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



JTF-435-LO

JUL 1 2010

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

SUBJECT: 7 June 2010 Detainee Review Board (DRB) Recommendation for Continued
Internment Approval for ISN 4199

1. I reviewed the findings and recommendation of the DRB conducted on 7 June 2010 concerning the internment of Detainee ISN 4199. By a vote of 3 to 0, the board members found that internment is necessary to mitigate the threat ISN 4199 poses. After consideration, I approve the DRB's finding and direct that ISN 4199 continue to be detained at the Detention Facility in Parwan.
2. The DRB's recommendation that ISN 4199 not be assessed as an Enduring Security Threat is approved.
3. The point of contact for this memorandum is CAPT ^{(b)(3), 10 USC 130b; (b)(6)}, Director of Legal Operations, JTF 435, at DSN (b)(2)

A handwritten signature in black ink, appearing to read "Mark S. Martins".

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

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Bagram-CENTCOM-DRB-702

~~SECRET//NOFORN~~



DEPARTMENT OF DEFENSE

JOINT TASK FORCE 435
APO AE 09356



REPLY TO
ATTENTION OF:

JTF-435-LO

7 June 2010

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

SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Continued Internment
of Badshawli (ISN 4199)

1. The Detainee Review Board (DRB) met on 7 June 2010 and made the following findings and
recommendations concerning the internment of Badshawli (ISN 4199):

- a. Badshawli (ISN 4199) meets the criteria for internment.
- b. The continued internment of Badshawli (ISN 4199) is necessary to mitigate the threat
he poses.
- c. Badshawli (ISN 4199) should be considered for Reintegration programs within the
Detention Facility in Parwan.
- d. Badshawli (ISN 4199) is not an Enduring Security Threat.

2. In arriving at its recommendation for continued internment, the DRB considered that
(b)(1); (b)(2); (b)(5)

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

captured Badshawli (ISN 4199) (b)(1); (b)(2); (b)(5)

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Bagram-CENTCOM-DRB-703

JTF-435-LO

SUBJECT: 7 June 2010 Detainee Review Board Recommendation for the Continued Internment of Badshawli (ISN 4199)

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

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

5. (b)(1); (b)(2); (b)(5) his 7 June 2010 DRB, Badshawli (ISN 4199) denied involvement with IEDs. Badshawli (ISN 4199) denied ever touching an IED and could not provide an explanation for why his fingerprint was found on the battery pack of an IED. Badshawli (ISN 4199) also denied ownership of the cellular telephones and SIM cards found at the point of capture. Regarding the circumstances of capture, Badshawli (ISN 4199) indicated that he and his friend (b)(6) were on the way to (b)(1); (b)(2); (b)(5) to visit a friend when Coalition Forces blocked the road. They stopped, ate some food and then tried the road again. Badshawli (ISN 4199) claimed that (b)(6) was driving the motorcycle and that (b)(6) stopped after the first warning shot.

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

-- the 2 May 2010 Detainee Criminal Investigation Detachment Report of Investigation, and the Theater Internment Facility Progress Report. The Personal Representative submitted copies of Badshawli's (ISN 4199) Initial Interview Checklist and Notification Worksheet. In addition, the Personal Representative also submitted a letter from Badshawli's (ISN 4199) tribal elders and leaders claiming Badshawli's (ISN 4199) innocence. The DRB considered also Badshawli's (ISN 4199) testimony, as well as his responses to questions posed to him by all parties to the DRB.

7. The Recorder called (b)(6) as a witness, who testified in the open session in the presence of Badshawli (ISN 4199). (b)(6) stated that he and his friend Badshawli (ISN 4199) were on the way to visit a friend at the university when they were captured by Coalition Forces. (b)(6) denied that Badshawli (ISN 4199) was involved with explosives or the Taliban, claiming that Badshawli (ISN 4199) was only involved with teaching. (b)(6) also denied ownership of the cellular phones and the SIM cards found at the point of capture.

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8. The Personal Representative called no witnesses during Badshawli's (ISN 4199) 7 June 2010 DRB. However, the Personal Representative provided a letter on Badshawli's (ISN 4199) behalf from the Lewan Khehil elders and tribal leaders that proclaimed his innocence.

9. In determining whether continued internment is necessary to mitigate the threat Badshawli (ISN 4199) may pose, the DRB assessed his level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. The DRB considered (b)(1), (b)(2); (b)(5)

In sum, based upon the evidence and testimony presented during his 7 June 2010 DRB, Badshawli (ISN 4199) meets internment criteria and continued internment is necessary to mitigate the threat he poses.

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

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

2 Enclosures:

1. DRB Voting Packet

2. Summarized Testimony with Exhibits

COL, QM, USA

President, Detainee Review Board

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

v.22 Feb 2010

| | | |
|-----------------------------------|-----------------------------------|---|
| <u>Date of Board</u> 7 June 10 | <u>Detainee Name</u> Badshawli | <u>Detainee ISN</u> (b)(2) -004199PP |
|-----------------------------------|-----------------------------------|---|

STEP 1 (FINDINGS): By a preponderance of the information presented, as a member of the Detainee Review Board (DRB), I find that:

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

OR

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

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a person who was part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces. *(Continue to Step 2)*

STEP 2 (THREAT ASSESSMENT RECOMMENDATION): After taking into account the detainee's potential for rehabilitation, reconciliation, and eventual reintegration into society, by a preponderance of the information, I find that continued internment:

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

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

OR

IS NECESSARY to mitigate the threat the detainee poses (* the detainee will remain at the Detention Facility in Parwan (DFIP) to ensure detention required to mitigate his threat) *(Go to Step 3B;*

Explain the facts presented at the DRB which led to your recommendation/
(Mandatory regardless of which threat assessment is made):

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

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

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

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

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

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

DRB President's Signature

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

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

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

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

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

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

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

(U//~~FOUO~~) [ISN (b)(2)-004199DP, Badshawli Lnu, entered the boardroom, took seat in front of the board members, and the unclassified hearing was called to order at 0807, 7 June 2010.]

(U) Persons Present:

- (U) COLONEL (b)(3), 10 USC 130b; (b)(6), PRESIDENT OF THE BOARD;
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER ONE;
- (U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER TWO;
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), DETAINEE REVIEW BOARD
RECORDER O
- (U) LIEUTENANT COLONEL (b)(3), 10 USC 130b; (b)(6), PERSONAL
REPRESENTATIVE ONE;
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6) LEGAL ADVISOR.
- (U) STAFF SERGEANT (b)(3), 10 USC 130b; (b)(6), COURT REPORTER.

(U) [The recorder was sworn.]

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

(U) The president also notified the detainee that he may be present at all open sessions of the board permitting that he acted appropriately. ISN 4199 was also advised that he could testify under oath or unsworn if he wished to do so, that he had a personal representative who was present at the hearing, that he may present information at the hearing including the testimony of witnesses, and that he can examine documents presented to the board all of which the detainee understood.

(U) Further, ISN 4199 was instructed that, at the conclusion of the board after the legal review, the board would determine whether he met the criteria for further internment at the Detention Facility in Parwan. The detainee understood the fact

that if he does not meet the criteria, he would be released as soon as possible. However, if he did meet the criteria, then he would be recommended for further internment, transferred to Afghan authorities, or released without conditions.

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

(U//~~FOUO~~) ISN 4199 Badshawli, was captured (b)(1); (b)(2); (b)(5); (b)(6)

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

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

(U//~~FOUO~~) Badshawli's right index finger print was found on the non-adhesive side of black electric tape from the battery pack of a command-wire IED discovered on a road near Jaberri, Khowst.

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

(U//~~FOUO~~) ISN 4199 meets the internment criteria if he was a part of, or substantially supported Taliban or associated forces that are engaged in hostilities against the US or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities in aid of such enemy armed forces.

(U) The detainee, ISN 4199, made the following statement to the board:

(U//~~FOUO~~) I know I never tried to run away from Coalition Forces. We tried to go and visit our friend at the university. When we saw the Americans were there and they

closed the way, we turned back and went to a shop and bought chips and ate them. We talked with each other and went back home because the way was closed. We were driving back home on the motorcycle and looking at our way and that's why we didn't see the helicopter following us. But when they shot, that's when we realized they wanted us to stop. There was some villagers too but these phones do not belong to us and does not belong to me. I think those people that ran away, dropped their telephone. The telephone is not mine.

(U) [The President of the Board informed ISN 4199 that this is an easy case because there is evidence.]

(U) [The detainee continued.]

(U//~~FOUO~~) That is not true my fingerprint was not found. I never touched any IED.

(U) [The president informed ISN 4199 that the board has to determine threat. The president also informed ISN 4199 that the board is essentially in his hands.]

(U) [The detainee continued.]

(U//~~FOUO~~) I never touched the tape on any IED.

(U) RECORDER ONE asked, in substance, the following questions to ISN 4199:

(U//~~FOUO~~) I was friends with (b)(6) . I have know of him for 14 years but we have been friends for the last two years. I have never worked with explosives. I have black tape that I use for cricket ball, but I'm sure I never used it in explosive material. I do not recognize the exhibit, Unclass Exhibit 1. I do not accept this as my fingerprint. I am from village of Dilwatzai, Yaqubi district. I know a lot of time of use the road that I was captured on but I had never stopped in the village. The way was closed, that's why I stopped there. I don't know if there are insurgents in my village. ANA is in my area. Afghan Army

is in my district and my village is just 5 minutes from there. Yes, I see Coalition Forces frequently. They come into the bazaar and villages around. I have never participated in an attack against Coalition Forces or the Afghanistan government.

(U) PERSONAL REPRESENTATIVE ONE asked, in substance, the following questions to ISN 4199:

(U//~~FOUO~~) I have lived in my village since we came back from Pakistan, we have lived in the same village. I am a teacher and also I am studying. I teach second grade, Pashtu and mathematics. Students at my school are from fifth grade to high school. I don't know how many teachers there are, maybe a hundred. There are no female teachers. I do not own a weapon. On the day of my capture, I was coming from a bazaar. I was traveling back home with my friend and we wanted to see our friend at ^{(b)(1); (b)(2); (b)(5)} but when we saw the way was closed, we went home. I don't know anything about IEDs. I have never conducted an attack against the Coalition. I don't know anyone that has ever conducted an attack against the Coalition.

(U) BOARD MEMBER ONE asked, in substance, the following questions to ISN 4199:

(U//~~FOUO~~) As a teacher, I make \$100 a month.

(U) BOARD MEMBER TWO asked, in substance, the following questions to ISN 4199:

(U//~~FOUO~~) When I was in high school, I studied different kinds of science. I understand that people are not the same and have different eyes and body parts but I'm not completely sure about fingerprints.

(U) [Personal Representative One explained he had a discussion about fingerprints with the detainee and how everyone has different fingerprints and he can be identified through his fingerprint.]

(U) BOARD MEMBER TWO asked, in substance, continued her questions to ISN 4199:

(U//~~FOUO~~) Yes I understand that the only way that my fingerprint can get on an object is by touching it, but I do not accept this as my fingerprint.

(U) [RECORDER ONE requested a brief temporary closed session.]

(U) [The PRESIDENT OF THE BOARD granted the closed session.]

(U) [The detainee left the room.]

(U) DETAINEE TESTIMONY

(U//~~FOUO~~) (b)(6), (b)(2); (b)(6), was called for the board and testified:

(U) The detainee witness was advised that this was not a criminal trial and that he will be testifying in another detainee's board.

(U) The detainee witness was willing to testify in front of ISN 4199.

(U) [The unclassified session reconvened.]

(U) [The detainee was brought back in the room.]

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) The detainee is Badshawli. We were classmates and friends from school. I have known him from before but we have been friends for two or three years. On the day we were captured, I saw Badshawli at the bazaar. I have a friend in ^{(b)(1); (b)(2); (b)(6)} at the university. We were going to see our friend, but we were captured on the way. I was driving the motorcycle. We stopped at a small shop and ate chips and started driving back. Since I was driving the

motorcycle, (b)(1); (b)(2); (b)(5)

All I know about Badshawli is he teaching in the same high school he was a student. He was just a teacher for second grade, and he was not involved with IEDs. If I knew that he was involved with IEDs, we would not be friends. (b)(1); (b)(2); (b)(5)
They might have dropped the cell phones.

(U) CROSS-EXAMINATION

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

(U//~~FOUO~~) I picked up Badshawli at the bazaar. We are not from the same village, but we are from the same district. We interact with each other sometimes every day, sometimes several days, sometimes a week, it varies. I have never seen the detainee with IEDs. If he was involved with IEDs, I would not be friends with him. I have stated that earlier. The detainee was not involved with Coalition Forces; he was just involved with his teaching. The only thing that I know about him is he was studying to be a teacher and was a teacher after that. He was teaching Pashtu to second grade.

(U) EXAMINATION BY THE BOARD

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

(U//~~FOUO~~) I don't know why Badshawli and I were detained. There are usually poor people in prison and they are the ones suffering in Afghanistan.

(U) RE-CROSS-EXAMINATION

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

(U//~~FOUO~~) We appreciate Coalition Forces. They have been helping our country and building roads and training ANA and ANP. We appreciate them for helping us.

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

(U//~~FOUO~~) I did not go to the university.

(U) [The witness, ISN 4198, withdrew from the boardroom.]

(U) PERSONAL REPRESENTATIVE ONE asked, in substance, the following questions to ISN 4199:

(U//~~FOUO~~) I have no good memories from Taliban or American. Taliban tried to hurt and kill innocent people, and Americans are doing the same things.

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

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

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

(U) The detainee chose not to make a final statement on his behalf.

(U) [The unclassified hearing adjourned at 0858, 7 June 2010.]

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

(U) [The classified hearing was called to order at 0858, 7 June 2010.]

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

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

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

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

(U) The recorder did offer classified exhibits.

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

(U) The president and members of the board voted on ISN 4199. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 0905, 7 June 2010.]

[END OF PAGE]