



~~UNCLASSIFIED//FOUO~~

DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09356

IN REPLY REFER TO:

JUL 6 2010

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

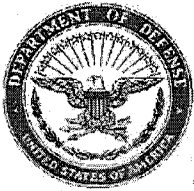
SUBJECT: 9 June 2010 Detainee Review Board (DRB) Recommendation Vote for Release for ISN 4196

1. I reviewed the findings and recommendation of the DRB conducted on 9 June 2010 concerning the internment of Detainee ISN 4196. By a vote of 3 to 0, the board members found that ISN 4196 did not meet the criteria for internment. Pursuant to Deputy Secretary of Defense Policy Guidance on Review Procedures and Transfer and Release Authority at Bagram Theater Internment Facility dated 2 July 2009, I approve the DRB's finding and direct that ISN 4196 be released from the Detention Facility in Parwan.

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

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

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REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09356



JTF-435-LO

9 June 2010

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

SUBJECT: 9 June 2010 Detainee Review Board Recommendation for the Release of Karim
Shakan (ISN 4196)

1. The Detainee Review Board (DRB) met on 9 June 2010 and made the following findings and recommendations concerning the internment of Karim Shakan (ISN 4196): Karim Shakan (ISN 4196) does not meet the criteria for internment and should be released.

2. In arriving at its recommendation, the DRB found Karim Shakan to be credible, and his theory that his enemies, the sons of (b)(6), had provided false information about him was supported by the testimony of two village elders and his nephew, all of whom said Karim Shakan had animosity with the sons of (b)(6). The perceived scarcity of HUMINT sources was consistent with village animosity.

3. (b)(1); (b)(2); (b)(5)
4196)(b)(1); (b)(2); (b)(5)

captured Karim Shakan (ISN

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

5. During his 9 June 2010 DRB, Karim Shakan (ISN 4196) said the pictures of men with weapons he was found with were from Russian times. He denied being a Taliban commander. He denied transporting weapons from any foreign country. He claims he has personal animosity and that's why someone has given false information against him. He has been living in Dubai and returned to Afghanistan in 2004. He denied knowing anyone in the pictures on page 8 of the Unclassified Exhibits. He said they could be his sons' photos. In Pakistan as a refugee, he had to buy a passport and he used the name Gul Bad Shah. His father's real name is (b)(6). When shown page 18 of the Unclassified Exhibits, he knew the person on the right ((b)(6)) and on the left ((b)(6)). He says he loves Coalition Forces who are helping rebuild the country. He thinks false reports were given about him. He is scared of the Taliban and that's

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Bagram-CENTCOM-DRB-670

JTF-435-LO

SUBJECT: 9 June 2010 Detainee Review Board Recommendation for the Release of Karim Shakan (ISN 4196)

why he had weapons in his home. His enemies are (b)(6) and his father (b)(6). He has been treated well here. If released, he will go home and sit around because he is old. He has lived in Dubai and Germany, where he was a mechanic. The animosity with (b)(6) stemmed from (b)(6) accusing his brother of being a spy. No one in his family is Taliban.

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

-- the 28 April 2010 Detainee Criminal Investigation Detachment Report of Investigation, and the Theater Internment Facility Progress Report. The Recorder did not call any detainee witnesses associated with Karim Shakan (ISN 4196) because none had provided information on him. The Recorder presented an email from 1st LT (b)(3), 10 USC 13³ of the Battle Space Owner (b)(1); (b)(2); (b)(5) to the board. LT (b)(3), 10 USC 13³ described Karim Shakan as an INS commander who intimidated the local population and recommended his continued internment. The Personal Representative submitted copies of Karim Shakan's (ISN 4196) Initial Interview Checklist and Notification Worksheet, as well as a letter thumb printed by five tribal elders on "Gul Bad Sha's" innocence. The DRB considered also Karim Shakan's (ISN 4196) testimony, as well as his responses to questions posed to him by all parties to the DRB.

7. The Personal Representative called the following witnesses, all of whom testified in the open session and in the presence of Karim Shakan (ISN 4196):

a. (b)(6), a university student from Khowst and the nephew of Karim Shakan, testified that his uncle has never been involved with the Taliban. His uncle does have enemies who work for the Afghan government. His uncle has worked in Dubai and Germany. His uncle was educated in Germany. When he has visited his uncle at the DFIP, his uncle spoke positively about his treatment by Americans.

b. (b)(6), a driver and farmer and village elder of Kadam village, knows Karim Shakan as a fellow villager. Karim Shakan is not Taliban. Karim Shakan does have enemies in the village, but they are not Taliban. Karim Shakan is too old to be Taliban in (b)(6) opinion. Karim Shakan's enemies are the sons of (b)(6).

c. (b)(6), an elder from Kadam, testified that he has known Karim Shakan since they were born. Karim Shakan is not a member of the Taliban but an elder in the village who should be released.

8. In determining whether continued internment is necessary to mitigate the threat Karim Shakan (ISN 4196) may pose, the DRB assessed his level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. The DRB considered also (b)(1); (b)(2); (b)(5)

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(b)(1); (b)(2); (b)(5) The DRB found did not find support to a preponderance of the evidence for the internment of Karim Shakan (ISN 4139). The DRB found that Karim Shakan (ISN 4196) did not meet internment criteria and should be released as soon as practical.

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

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

2 Encls.

1. DRB Voting Packet

COL, QM

2. Summarized Testimony with Exhibits

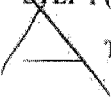
President, Detainee Review Board

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

v.22 Feb 2010

<u>Date of Board</u> 6 June 10	<u>Detainee Name</u> Kasim Shakar	<u>Detainee ISN</u> (b)(2) - 0011960P
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STEP 1 (FINDINGS): By a preponderance of the information presented, as a member of the Detainee Review Board (DRB), I find that:



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

OR

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

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

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

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

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

OR

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

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

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

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

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

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

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

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

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)-004196DP, Karim Shakan, entered the boardroom, took seat in front of the board members, and the unclassified hearing was called to order at 1350, 9 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) LIEUTENANT (b)(3), 10 USC 130b; (b)(6), DETAINEE REVIEW BOARD
RECORDER FOUR
- (U) LIEUTENANT COMMANDER (b)(3), 10 USC 130b; (b)(6), PERSONAL
REPRESENTATIVE FOUR;
- (U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), LEGAL REPRESENTATIVE; and
- (U) SPECIALIST (b)(3), 10 USC 130b; (b)(6), PARALEGAL.

(U) [The recorder was sworn.]

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

(U) The president also notified the detainee that he may be present at all open sessions of the board permitting that he acted appropriately. ISN 4196 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 4196 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) LIEUTENANT ^{(b)(3), 10 USC 130b; (b)(6)} presented the following unclassified information to

(U//~~FOUO~~) ISN 4196, Karim Shakan was captured (b)(1); (b)(2); (b)(5)

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

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

The Detainee meets the internment criteria IF this board determines he was part of, or substantially supported the Taliban or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities in aid of such enemy armed forces.

(U) The detainee, ISN 4196, made the following statements to the board:

(U//~~FOUO~~) The weapons I own are 2 AK-47s and one hunting rifle. The pictures are old pictures from the Jihad time

during the Russian occupation. You accuse me of being a Taliban Commander and if you can prove that then keep me but I am saying that I am not. I have never brought weapons from a foreign country. I am a poor person. I worked for 25 years in Dubai and just came back to Afghanistan four years ago. I just want to live peacefully with my family. I have never been involved with the Taliban.

(U) DETAINEE TESTIMONY

(U//~~FOUO~~) Karim Shakan, (b)(2)-004196DP, was called for the board and testified, in substance as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) I came back to Afghanistan about 2004. I lived in Dubai during the 1980's when the Russians were occupying the country.

(Unclassified Exhibit 8 was shown to the detainee) They are from the Jihad time; I don't know who they are. I was not here at the time. These are not my own pictures. ^{(b)(1); (b)(2); (b)(6)}

I live with my two sons and no one else. My sons were involved with the Jihad so maybe they are in them or not. I don't know if they are my sons or their friends. My sons are 45, 40, and 35 years old. My brother was involved Jihad and my other two brothers died here during the Jihad time. These pictures are not of me and do not belong to me.

When you go to Pakistan to travel you have to buy an identity to travel. I bought the IDs that say Gul Bad Shah.

My father's name is (b)(6)

In Pakistan the Taliban captured some trucks and the drivers came to us and asked us to go talk with the Taliban. We went and talked with the Taliban and got them

back. The Taliban told us that we should not participate in elections, help the United States in business, and the drivers needed to pay them. I told them it was out of my hands and the drivers gave them money and they got the trucks back. I went to the Taliban with (b)(6) .

(Unclassified Exhibit 18 was shown to the detainee) The guy on the left is (b)(6) .

I have never said that the Coalition Forces have done some bad things. Can you prove this?

I love the Americans they help us rebuild our country. The Americans came to my house and ate dinner with us. Without the Americans we could not rebuild our country.

I don't know why the Americans captured me. I can help my country and I can help my people. My son is in the University and my niece works in the American hospital. This is why we are scared of the Taliban; we do not help them.

I have a fellow villager that is my enemy. His whole family is my enemy. His name is (b)(6) and he has some sons.

A year after I came back from Dubai I was a mechanic but my son made me retire and relax.

Since I've been here I have been treated well but it is unfortunate that I am innocent. I already know how to read and write Dari and Pashto so I don't take any classes here.

I am old so if I am released I would go home and sit down and relax.

(U) CROSS-EXAMINATION

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

(U//~~FOUO~~) (Unclassified Exhibit 9 was shown to the detainee) I don't know what kind of weapon that is.

I have also lived in Germany to learn more about being a mechanic. I came to Khowst and worked for a German company as a mechanic.

(U) EXAMINATION BY THE BOARD

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

(U//~~FOUO~~) During the Russian time my brother was sometimes coming to the village and the family knew my brother was an American spy and they shot him. Since then our families have not gotten along. None of my family is Taliban or has been a part of the Taliban.

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

(U//~~FOUO~~) Americans are building the country. Roads, schools, and the government are being built. The Russians came and didn't do anything good for us so we fled.

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

(U//~~FOUO~~) My niece works in the hospital on the women's side, mostly in the child birth wing.

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) s/o (b)(6) , Nephew, was called as a witness, rd, e rdroom, and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) I live in Khowst City. I am a university student. The man behind me is my uncle. I know him very well and he is not involved with the Taliban. We do have enemies. The enemies are not Taliban because they work with the government. I hope you release him because he is a good man and he has been here a while.

(U) CROSS-EXAMINATION

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

(U//~~FOUO~~) He has worked in Germany and Dubai. My uncle got his education in Germany. I am young so I don't have the information about how long he was out of the country. I have visited my uncle two times here in Parwan. He says the guards treat him well.

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) s/o (b)(6), Village Elder, was called as a witness for direct examination in the boardroom, and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) I live in Kadam village. I am a farmer and also a village elder. We live in the same village and I have known him since we were born. He is not a part of the Taliban. He has enemies and a lot of time people give false information. He is an old person and I ask that you release him.

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

(U) WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6) s/o (b)(6) , Tribal Elder, was called as a witness rd, e e boardroom, and testified, in substance, as follows:

(U) DIRECT EXAMINATION

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

(U//~~FOUO~~) I live in Kadam village, Khowst Province. I am a driver, a farmer, and also an elder of the village. I know Karim Shakan he lives in my village. He has never been a part of the Taliban. He has enemies in our village. The enemies are not Taliban. I would not have come here to testify if he was in fact Taliban. He is a really old person and he can't be a Taliban because he is too old. In this country some people give wrong information and don't like their enemies living a peaceful life.

(U) CROSS-EXAMINATION

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

(U//~~FOUO~~) I know his enemy is (b)(6) son of (b)(6) .

(U) [The witness stayed in the boardroom to view the rest of the unclassified proceedings.]

(U) The recorder did offer unclassified exhibits.

(U) The personal representative did offer unclassified exhibits.

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

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

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

(U) The detainee made the following statement:

(U//~~FOUO~~) (No statement was made)

(U) [The unclassified hearing adjourned at 1509, 9 June 2010.]

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

(U) [The classified hearing was called to order at 1510, 9 June 2010.]

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

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

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

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

(U) The recorder did offer classified exhibits.

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

(U) The president and members of the board voted on ISN 4196. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1515, 9 June 2010.]

[END OF PAGE]