

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

BAHTIYAR MAHNUT )

Petitioner, )

v. )

Civil Action No. 05-1704 (JR)

GEORGE W. BUSH, )

*et al.*, )

Respondents. )

**DECLARATION OF JOSEPH S. IMBURGIA**

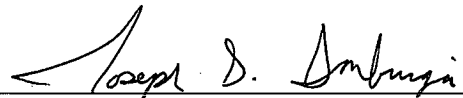
Pursuant to 28 U.S.C. § 1746, I, Major Joseph S. Imburgia, Judge Advocate General's Corps, United States Air Force, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

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 Bahtiyar Mahnut that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or are redacted. An OARDEC staff member has redacted information that would personally identify other detainees and certain U.S. Government personnel and foreign nationals 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: 20 Sep 05



Joseph S. Imburgia  
MAJ, JAGC, USAF



Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 832

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20 JAN 2005

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 277

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 #277 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)  
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OARDEC (Fwd)  
CITF Ft Belvoir

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19 Jan 05

## MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
 FOR DETAINEE ISN #277

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 #12 of 29 Sep 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 to participate by attending the CSRT, providing a sworn statement, and by responding to questions posed by his personal representative and the CSRT. *See* Enclosure (3) to Encl. (2).
- 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. Note that some information in Exhibits R-4 through R-6 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.
- e. The detainee did not request that any documentary evidence be produced. However, the detainee did request that 17 witnesses-detainees, all of [REDACTED] heritage (captured with detainee), be produced to testify on detainee's behalf. The CSRT determined that "all of the witnesses would probably testify similarly, if not identically," and therefore advised the detainee that he could choose two from the 17 to testify on his behalf. The detainee chose ISN [REDACTED] and ISN [REDACTED] to testify on his behalf, and the CSRT approved the request. Each of these two witnesses-detainees testified at the CSRT. The CSRT's determination to allow these two witnesses to testify was proper.

However, there is no documentation in Encl. (2) which indicates the basis of the Tribunal's determination that the requests for the 15 remaining witnesses would be

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN # 277

“similar[], if not identical,” as noted in the Unclassified Summary Basis of Decision. *See* Enclosure (1) to Encl. (2).

Notwithstanding, references (a) and (b) clearly provide that the Tribunal has the discretion to determine what evidence it deems relevant, that it is “not bound by the rules of evidence such as would apply in a court of law,” and that it “may consider any information it deems relevant and helpful to a resolution of the issues before it.” As a corollary, the converse must be true that the Tribunal may refuse to consider any evidence it does not deem “relevant and helpful” to their determination.

Here, a review of the Record reveals that, although there is no documentation in Encl. (2) of the detainee’s request for any of the witnesses, the Tribunal was presented with a proffer of the witnesses’ testimony at some point during the proceedings which enabled it to reach its determination that these 17 witnesses’ testimony would be “similar, if not identical,” because the CSRT references “data” in reaching its determination. *See* Enclosure (1) to Encl. (2). Thus, it appears from a clear review of the record that, even if the remaining requested witnesses had been called, the CSRT would have reached the same determination, that the detainee was an enemy combatant, because the preponderance of evidence supports the determination reached by the CSRT. Therefore, the Tribunal’s denial of detainee’s request for these 15 additional witnesses did not appear to prejudice the detainee.

f. The Tribunal’s decision that detainee #277 is properly classified as an enemy combatant was unanimous. However, the Tribunal “urges favorable consideration for release of the Detainee,” and “urges that he not be forcibly returned to the People’s Republic of China.”

g. The detainee’s Personal Representative was given the opportunity to review the record of proceedings, and submitted post-tribunal comments to the Tribunal which objected to the Tribunal’s denial of detainee’s request to produce all 17 witnesses, and which objected to the Tribunal’s refusal to allow one of the witnesses to make an unsolicited statement to the Tribunal after the CSRT and personal representative had questioned the detainee. The personal representative specifically alleged that the CSRT’s rulings were a denial of the detainee’s due process rights.

In reviewing the objections, the CSRT first noted that the Tribunal would have been burdened with “repetitive, cumulative testimony” if it had permitted each of the 17 witnesses to testify. As discussed above, the CSRT’s determination complied with references (a) and (b), and was therefore, proper, and did not appear to prejudice the detainee.

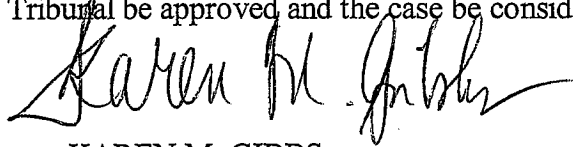
Similarly, the CSRT properly refused to allow an unsolicited statement of one of the witness-detainees. As the CSRT noted in its review of this objection, the Tribunal President “has never permitted witnesses to make spontaneous statement that are not in

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 277

response to questions” posed by the CSRT or the personal representative. However, the Tribunal noted that the personal representative “could have easily elicited the additional information from the witness by asking more questions” of the witness, “but elected not to do so.” Therefore, the ruling was proper, and did not prejudice the detainee.

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.



KAREN M. GIBBS  
CDR, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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. Marine Corps Reserve; President

[REDACTED] Lieutenant Colonel, JAGC, U.S. Army;  
Member (JAG)

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

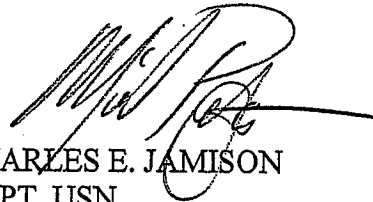
23 December 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 277

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].

FOR   
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:   #12  

(U) ISN#:   277  

Ref: (a) (U) Convening Order for Tribunal #12 of 29 September 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~~)  
(4) (U) Copies of Documentary Evidence Presented (S/NF)  
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was initially convened on 23 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 27 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #277 is properly designated as an enemy combatant, as defined in reference (c).

3. (U) In particular, the Tribunal finds that this Detainee is affiliated with forces associated with al Qaida and the Taliban, which 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).



Colonel, U.S. Marine Corps  
Tribunal President



**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #12  
ISN #: \_\_\_\_\_ 277

**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 because he is affiliated with forces apparently associated with al Qaida and the Taliban that are engaged in hostilities against the United States and 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 indicated that the Detainee was in a [REDACTED] training camp in Tora Bora from June 2001 to November 2001 (where he was trained on the Kalashnikov rifle and on tactics) and left after the United States air campaign began against the Taliban. He is alleged to be a member of the East Turkistan Islamic Movement (ETIM), which is assessed to be an extremist movement, linked to Al Qaida. The Detainee was arrested with Arabs at a Pakistani mosque. The Detainee chose to participate in the Tribunal process. He initially requested seventeen witnesses then modified his request to two witnesses after the Personal Representative's discussion with the Tribunal President. He requested no unclassified or classified documents be produced, and made a sworn verbal statement. The Tribunal President found the two requested witnesses reasonably available. The Detainee, in his verbal statement, admitted training at a [REDACTED] training camp in Afghanistan but denied being a member of either Al Qaida or ETIM.

The Tribunal President's evidentiary and witness rulings are explained below.

**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-19.

b. Testimony of the following persons: [redacted] and [redacted] (fellow detainees of the Detainee; their internment serial numbers are included at Enclosure (2)).

c. Sworn statement of the Detainee.

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

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[redacted]	Reasonably Available	Yes*
[redacted]	Reasonably Available	Yes*

\* The Personal Representative, on behalf of the Detainee, originally requested all 17 witnesses of [redacted] heritage currently detained at Camp Delta be made available to testify. After determining from the data that all the witnesses would probably testify similarly, if not identically, the Tribunal President responded that he would allow two witnesses of the 17 originally requested, and the Detainee could choose whichever two he believed would best help his case. The Detainee chose the above-mentioned witnesses to testify and they did so.

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 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. The Recorder also introduced, as Exhibit R-3, an excerpt of the Terrorist Organization Reference Guide from the U.S. Department of Homeland Security, January 2004. Although this was helpful in providing information concerning the Eastern Turkish Islamic Movement (ETIM), especially concerning the alleged tie between ETIM members and a plot to attack the U.S. Embassy in Kyrgyzstan and other U.S. interests abroad, the Tribunal found it to be only moderately persuasive because it did not indicate that this specific Detainee had any knowledge or responsibility for any anti-U.S. acts.

c. Essentially the only other unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony and the sworn testimony of two witnesses that the Detainee requested to testify on his behalf. A summarized transcript of the Detainee's and witnesses sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he did train at the [REDACTED] camp in Afghanistan but he did not belong to the ETIM or Al Qaida and he was not aware of any assistance that the Al Qaida might be giving to ETIM or any other Uighur group. The witnesses both testified that they had seen the Detainee in the [REDACTED] training camp in Afghanistan and trained with him there.

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 requested or deemed necessary.

b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant because he is affiliated with forces apparently associated with al Qaida and the Taliban, which are engaged in hostilities against the United States or its coalition partners.

d. The Tribunal President reviewed the Personal Representative's comments at Enclosure (5) to the CSRT Decision Report. Noting that the Personal Representative disputed his ruling to allow two witnesses instead of the 17 requested witnesses, the Tribunal President reaffirmed his ruling that permitting the Detainee to bring two witnesses on his behalf was a proper balance between allowing the Detainee to introduce favorable evidence on his behalf and not burdening the Tribunal with repetitive, cumulative testimony about the Detainee. Next, the Tribunal President disputes having denied the Detainee adequate due process in his hearing. The Detainee and Personal Representative could have, and apparently did, ask as many questions of the witness as they desired. It is true that the Tribunal President denied the witness's request to make a spontaneous statement because it was not in response to a question from any of the

participants (see page 15, Enclosure (3)). The Tribunal President has never permitted witnesses to make spontaneous statements that are not in response to questions and so the decision to act similarly here was consistent with past rulings on this topic. Furthermore, the Detainee or the Personal Representative could easily have elicited the additional information from the witness by asking more questions of him, but they, for whatever reason, evidently chose not to do so. The witness had sufficient opportunity to testify and the Detainee had adequate opportunity to present his case before the Tribunal.

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps  
Tribunal President

Summarized Sworn Detainee Statement*The Personal Representative made the following statement on behalf of the Detainee.*

Before addressing points on the Unclassified Summary, I want to state for the record that historically the Chinese have executed Uighurs who have been deported and returned to China. I do not want repatriation and am seeking political asylum because I fear execution upon return to China.

Part of the enemy combatant definition is whether someone fought against the United States or the coalition forces, and exhibit D-b is a list of coalition partners and China is not on that list.

- **3 Detainee is a member of Al Qaeda.**

I never heard of Al Qaeda until arriving in Cuba and I have no ties to Al Qaeda.

- **3.1 Detainee was in a [REDACTED] training camp in Tora Bora from June 2001 to November 2001, and left the camp after the United States air campaign began.**

The bombing did start while I was in the camp and we did flee for our lives. I do not know who was running or funding the camp, but the people who trained me were Uighur and I was not aware of any ties to the Taliban or Al Qaeda.

My battle is against the Chinese, not the United States or the coalition partners. The other Uighurs and I prefer to settle in Europe, Canada or the United States. To our knowledge there was no fighting with the Chinese in Afghanistan, and it was therefore a safe place to train so we could one day fight the Chinese.

The person running the camp was named [REDACTED] and he was a [REDACTED]

- **3.2 Detainee was trained on the Kalashnikov rifle and tactics.**

I trained on the AK-47 and physical fitness activities.

- **3.3 Detainee is a member of the Eastern Turkistan Islamic Movement (ETIM).**

I suspect that this is an organization that fights the Chinese but I don't know any organization by that exact name.

- **3.4 The Eastern Turkistan Islamic Movement is an Islamic extremist movement linked to Al Qaeda.**

I had never heard of Al Qaeda, and therefore am not aware of any links between any Uighur freedom organizations and Al Qaeda. The Uighurs simply want freedom from China as our ultimate goal, just like the United States people have fought for freedom throughout their history.

- **3.5 Detainee was arrested with Arabs as a Pakistan mosque.**

It's true I was arrested in a mosque and I got to the mosque by following Arabs who were also fleeing for their lives. I don't know much about the Arabs because I wasn't able to communicate with them; they spoke a different language.

We spoke of the Terrorist Organization Reference Guide, and this says there was a link between the Eastern Turkish (sic) Islamic Movement and Al Qaeda, and specifically the document thought there were links between the extremist movement and attacks on U.S. Embassies overseas. I reiterate that I'm not familiar with the Eastern Turkistan Movement and I have no knowledge by any Uighur group against embassies of the United States. What I know of the Uighur groups, the only goal is to get freedom from China and they are pro-U.S.

We discussed the relationship of the camp and it was a 3-hour drive from Jalalabad on a dirt road.

*The Detainee made the following sworn statement.*

The United States accused me of being a member of Al Qaeda, but in my life in Afghanistan, I had never heard of Al Qaeda, and when I came here, they started interrogating me and asked me if I knew about Al Qaeda. That's how I heard of Al Qaeda.

If you ask me questions one by one, I will answer everything.

**Tribunal Members' Questions to Detainee**

Q: Are you originally from the Uighur province of China?

A: Yes.

Q: So, you are considered a Chinese citizen?

A: Yes.

Q: If you were allowed to choose to live anywhere you wanted, where would you choose to live?

A: My best option, my choice would be to go back to live in my country if it was free, but until my country is free I'd like to live in some kind of democratic country, somewhere in Europe, it doesn't matter. Any country.

Q: How long were you in Afghanistan?

A: I went to Afghanistan approximately on June 20, 2001. One night, we were doing construction work, building a house and after we went to sleep, the bombs started. We then fled and ran for our lives.

Q: Was this in the camp with the other [REDACTED] fighters?

A: Yes, it's the place all the [REDACTED] stayed.

Q: How many other [REDACTED]?

A: Approximately 30-35 people.

Q: You said it was lead by a [REDACTED]

A: Yes.

Q: How did you know how to go there from your home country?

A: My goal wasn't to go to Afghanistan. When I was in my country, the Chinese government tortured our people. We suffered much and I can't take it. I don't want to see it anymore, that's why I want to go somewhere I can live a free life. That's why I left my country.

When I left my country, I went to Kazakhstan, then to Pakistan. When I reached Pakistan, I had \$700 U.S. dollars and when I talked to other people in Pakistan, I was told I couldn't make it through the country with \$700 and I wanted to go. I was told there was a place I could go.

I was in Pakistan and tried to do business, but it didn't work out because Pakistan is a poor country and very bad for business. If you had \$700 U.S. dollars in my home country, you'd be a rich person, but I couldn't do any business there. People gave me advice and said there was a group of people in Afghanistan, and I could go there because their group's goal was just to fight against the Chinese government and if I went I didn't have to pay for food or anything, so I went to Afghanistan.

They told me to go and stay, and as soon as they get more money, they'll get me and take me to whatever country I wanted to go to, like Canada or America.

Q: Did you go by yourself? With a group of other people? With your family?

A: There were two people when I left my home country. We went to Pakistan and Afghanistan together.

Q: So, the other [REDACTED] that were at the camp, you met them there?

A: Yes.

Q: You said you didn't know the name of this group by its exact name, the Eastern Turkistan Islamic Movement. Do you belong to a group with a similar name?

A: Our fight is for freedom and our independence, but we don't talk about the Islamic Movement. I don't know where the Islamic Movement came from. The freedom fights and the independent fights have not been called [during] the last decade, they've been called for the past few centuries.

Q: Are all the people in the group Muslim?

A: Yes.

Q: Are people who are not Muslim accepted into the group?

A: The U.S. is the most powerful country in the world and China is the second most powerful; it is growing very fast. We are fighting against the government and we need help from any nation that will help us. We need their help to fight.

Q: How many [REDACTED] are there today that are involved in this?

A: I saw about 35 people with my own eyes at that place [the camp].

Q: Probably more than that have the same goals you do?

A: There are lots of Uighurs. They left the country because of the Chinese government. All of the Uighurs have the same goal of taking back our own country.

Q: Do you know how many Uighurs are still in your home country?

A: From what I read in books, there are up to 30 million Uighurs and if you don't count those abroad, there are probably 26 or 28 million people at home.



**Tribunal Members Questions to Personal Representative**

Q: You mentioned the name [REDACTED]. Can you explain his significance again, please?

A: He was the [REDACTED] who was running the camp.

**Tribunal Members Questions to Detainee**

Q: When you were at the camp, did you see any people training there besides you and your fellow [REDACTED]?

A: When I came to the camp, I only saw [REDACTED] people.

Q: Was there ever a time when the Taliban soldiers asked you and your group to help them in their fight?

A: No.

Q: Before the United States attacked the camp, had anyone else, like the Northern Alliance, attacked your camp before that?

A: No. In the camp there was no fighting, there was just peace and quiet.

Q: So, as soon as that attack happened, that is when you and your group tried to escape to Pakistan?

A: When the bombing started, one of our people was dead. We said they came here to try to fight, if we stay here we're going to lose all of our people. We were scared and ran to the mountain and looked for the road to go somewhere else. We couldn't find the road, so we stayed there a little while.

Q: Did you have a passport, money and weapons with you for protection when you were making your journey?

A: The first day I came to the camp, [REDACTED] told me that I had to give him my passport and whenever I wanted to leave I could ask for it back. He then took my passport from me.

Our clothing and baggage was inside the house at the time. We left everything in the house when we left.

Q: You didn't have time to go back and get anything?

A: We couldn't take our clothing with us.

Q: So, it's not as though he [REDACTED] wouldn't let you have it back, it's that you didn't go back to get it because you were afraid you might get killed?

A: When they dropped the bombs, the place caught on fire and everybody was running in different directions. Nobody asked what are you doing, let's go, everyone was just running scared. If you stay there, you will get burnt.

Q: So, no passport and no money, did you at least take weapons for protection?

A: No, I didn't have a weapon.

Q: So, you went from Tora Bora all the way to the Pakistan border and you were able to enter Pakistan?

A: We stayed behind the mountain for a while because we couldn't find a road. One day we saw some Arabs and asked them, they said "Pakistan" so we followed them.

There is a funny story; at that time, even the local monkeys chased us to get out. We really wanted to get out of that place. If you want to hear it, I would like to tell.

Q: It says here that you were arrested in a mosque in Pakistan, and I'm wondering how you made it in without a passport.

A: There were no immigration people or border people. We just passed through the mountains. They had nothing there.

Q: So, they captured you and put you in a jail in Pakistan for a while?

A: We entered the village, and we were fed. Then in the middle of the night, around midnight we were told to get up. We got up and we went to the mosque. During this time, I didn't realize I was being captured. When they took me to the prison and put shackles on my hand, I realized I had been captured.

Q: So, they left you in the jail for a while and then turned you over to Americans?

A: Yes.

Q: How many of the other [REDACTED] were with you when you were captured?

A: There were 18.

- Q: All of you were in the same place at the same time?
- A: All 18 of us left camp together, but we were not in the same cell in the Pakistan prison.
- Q: But in the mosque, yes?
- A: Yes.
- Q: I don't suppose any representatives from your home country tried to help you?
- A: The Chinese Delegation came to this island.
- Q: They didn't come to Pakistan?
- A: No, not to Pakistan.
- Q: But you said they came to this island and talked with you?
- A: Yes. When we were captured in Pakistan, we didn't tell them we were from China. If we told them we were from China, Pakistani tradition will send us back to China. We were scared of that, so we told them we were Afghani.
- Q: Of the 30-35 [REDACTED] in the camp, are any of them veterans of fighting in Afghanistan?
- A: There are no veterans from the training camp; all of them are my age.
- Q: But they were there before you were there?
- A: When I got to the camp, there were 20-25 people there ahead of me.
- Q: Do you have any idea how long they were there?
- A: I didn't ask how long they'd been there.
- Q: So, you were together about 3 or 4 months before the bombing started?
- A: Yes. The time I spent with them started approximately in July, about 3 months.
- Q: You were all [REDACTED] there, and you must have talked about what you wanted to do and how you wanted to free your country. There was no discussion about what was happening in Afghanistan, the Taliban and the Northern Alliance?

A: At that time in the camp, we didn't know about the fights going on between the Taliban and the Northern Alliance, but I heard about the fighting from outside.

Q: Outside from where?

A: In my home country.

Q: Before you got there?

A: Yes.

Q: You mentioned that you turned in your passport. Was a passport needed to go from China to Pakistan?

A: Yes, a passport is required to go from China to Pakistan.

Q: You mentioned that you didn't speak the Afghani language, correct?

A: Yes.

Q: Is that true of the Arabic language also?

A: True.

Q: So, on the way to Pakistan when you ran into the Arabs, how did you communicate?

A: I said "Pakistan, Pakistan," they said "Pakistan" and we just followed. That was the communication.

Q: I'd like to know the story about the monkeys.

A: We escaped when the bombing started. We saw a little hole, like a bunker in the mountainside and saw two monkeys run out. We cleaned it out and lied down. When it got dark, a lot of stones were falling from the top of the mountain. We were scared, thinking there was another bomb. We were scared to get up, but we looked around and the monkeys were throwing stones from the mountain at the people lying down because we were sleeping in their home.

**Tribunal President's Questions to Detainee**

Q: You said you traveled to Afghanistan in June or July of 2001?

A: Yes.

Q: And your purpose was to attend training at this camp in Afghanistan. Is that correct?

A: It was not my intention to go to a war zone. I heard there was a war going on when I was in my home country. If there is a war going I don't want to go to the war zone.

I went to that place [training camp] because I had a financial problem. I needed the money, so I was forced to go there to survive.

Q: In your home country you had a financial problem?

A: When I got to Pakistan, I had financial problems. The people in Pakistan told me there was a freedom fighters group in Afghanistan and if I went there, they'd feed my stomach, I'd be okay and then as soon as the financial stuff is fixed, they'd pick me up.

Q: I understand. At this training camp in Afghanistan, were there others besides your [REDACTED] brothers?

A: No, only [REDACTED]

Q: No Arabs or Afghans?

A: No.

Q: Did you have weapons training on the AK-47 at the training camp?

A: Yes.

Q: Have you ever had weapons training before attending this camp in Afghanistan, either in Pakistan, or Kashmir or your home country?

A: The Kalashnikov, I've seen pictures, but never had the training.

Q: Thank you for your testimony.

A: Also, thank all of you.

Q: Is there any information you would like to make known to us before we call the witness?

A: Yes, I have one more thing to tell. The U.S. said we have ties with the Taliban, so I have to talk about this issue.

Al Qaeda's name we heard in here. Al Qaeda is an enemy of the whole world and the United States. The whole world is against the Al Qaeda organization. The Turkistanis need help from people stronger than the Chinese, like the U.S.

[REDACTED] is a smart person and he knows that if we had ties with Al Qaeda, that would mean all the Uighur people would lose help from the whole world and lose our goals.

To get our independence, we need the whole world's help, from a country like the U.S. If Al Qaeda is an enemy of the United States, it's the whole world's enemy. If we want freedom, how could we have ties with the whole world's and America's enemy? If we have those ties, we will lose everything.

We never heard of Al Qaeda. We did not have ties with Al Qaeda in the past and we will not have ties with Al Qaeda in the future.

We understand that Al Qaeda was established by Arab people, and we understand also that those Arab people have their own country and can live however they want in their own country. We are Uighurs and have lost our country on the west side of China. I don't know what their goals are, they can live independently and freely in their country and I don't understand why they're fighting with the whole world and the Americans. I have no knowledge about why they're fighting.

I believe our leaders are smart enough to figure out that if we had ties with Al Qaeda we would be left out of world support. I personally don't believe our leaders will do that.

The second thing, if Uighurs go to Kazakhstan, Kyrgyzstan or Pakistan, and are captured, they will send us back to China. Pakistan sent back 10 or 12 people and they were killed. Kyrgyzstan sent back 2 people to China and they were killed. We had no chance to stay in those countries. Afghanistan is the only place Uighurs can stay safely. Uighurs need a permanent location to get our country back and to fight against them.

The only help the Uighurs got from the Taliban was that they allowed us to stay in their territory and didn't send us back to China. They just supported us by letting us stay in their home country and to get trained to fight the Chinese government.

If anyone has any more questions, I can answer them.

#### **Tribunal Members Questions to Detainee**

Q: If you were to be set free, you would go back to your homeland, which is China, unless you were to get asylum somewhere?

A: I was going to ask that. My Personal Representative told me that if I am innocent I'll go back to my home country. If I'm guilty and come back an enemy, I will stay. I was going to ask you about this. If I go back to China they will kill me, but if I wanted to stay here do I have to make myself guilty?

Tribunal President: It is my understanding that if we determine you are not properly classified as an enemy combatant, you will be released to your home country.

Detainee: China is not my country. My original country is Turkistan. How can I go back to China if China is not my home country? If I have to go back to my home country, I will wait until my country is free. Then I will go back to my home country, I will not go back to China.

Tribunal President: You will have an opportunity to address that at a later time if that turns out to be the case.

Detainee: The main goal of all Uighurs is not to go back to China. We're seeking political asylum.

Tribunal President: That's beyond our authority. All we have been assigned to do is to determine your classification, whether you are or are not an enemy combatant.

Detainee: We would really like to hear from you guys any news about our families. All the Detainees living here get letters or some sort of communication with their families, but we don't get any communications from our families back home. We don't receive mail or anything. We're living really miserable lives. We would like to hear about our kids and if things have gotten better.

Tribunal President: We have no issues with that. That is not within our realm of authority or responsibility. We are here only to determine if you are an enemy combatant. There are processes in place in this facility that will address that issue.

Detainee: I just remembered one thing, I'd like to tell you if you have time. The Personal Representative told me that 2 Uighurs from Kyrgyzstan were sent back to China because they planned to attack the U.S. Embassy in Kyrgyzstan. I'd like to talk about that.

Tribunal President: I have no knowledge of that.

Detainee: I'd like to tell you about it.

Tribunal President: Does this have relevance to your determination of enemy combatant status?

Detainee: It says that the Uighur people are involved in terrorist activity and that's why I wanted to talk about this. The Kyrgyzstan terrorist act recently happened and that's why I want to talk about this.

Tribunal President: And you said that the Personal Representative brought this to your attention?

Detainee: Yes.

Tribunal President: Through this...[consults with Tribunal Judge Advocate]

Personal Representative: ...mentioned terrorist activity on that document [R-3], Sir.

Tribunal President: You may begin.

Detainee: The fights between the Uighurs and the Chinese have been happening for a long time. They didn't just happen yesterday. Two Uighur people have been captured in Kyrgyzstan and then were sent back to China.

If I am sent back to China, they will torture me really bad. They will use dogs; they will pull out my nails, and all kinds of bad torture. The Chinese government tried to block the Uighur people from getting help from the U.S. government. If [we are] sent back, the Chinese will make up a fake story to tell everybody. I hope the whole world and the United States don't believe the Chinese who are blaming all the problems on the Uighur people.

Tribunal President: We'll certainly take everything you tell us into consideration.

Personal Representative: Sir, for clarity, the statement he is talking about is page 48 of the Terrorist Guide, second paragraph, under activities.

Tribunal President: Yes, exhibit R-3.

*The Personal Representative called [REDACTED] as a witness for the Detainee.*

*The Tribunal President advised the Detainee that when the witness comes in, the Detainee will be allowed to question him first, then the Personal Representative, the Recorder and then the Tribunal Members.*

*The witness, [REDACTED] was sworn.*

Detainee's Questions to Witness [REDACTED]

Q: They want to know if we were in the camp, and left the camp together. I want you to testify for that.



A: I will testify for you.

Tribunal President: You may begin.

Witness: I don't know where to begin.

Tribunal President: Mahnut will ask you questions and then the others will ask you questions.

Tribunal President: Do you have any questions for the witness?

Detainee: You can ask questions. We can move on.

**Personal Representative's Questions to Witness** [REDACTED]

Q: When did you meet Mahnut?

A: I don't know the exact time, but I met him when I was in Jalalabad.

Q: Were you in the training camp together?

A: Yes.

Q: Who were the people training in the camp?

A: It's not someone telling us what to do, it's volunteer. People train themselves.

Q: What kinds of people were at the camp? Anyone else besides [REDACTED]

A: No.

Q: Do you know who ran the camp?

A: [REDACTED]

Q: Where is the camp in relation to Jalalabad?

A: I don't know what kind of relationship they have in Jalalabad, but the village belongs to Jalalabad City.

Q: Did you ever encounter any Taliban or Al Qaeda at the camp?

A: No.

Q: Were you ever asked to join in fighting in Afghanistan?

A: If I don't see them, how would they ask me those kinds of questions?

Q: Were you and Mahnut captured together?

A: Yes.

**Tribunal Members Questions for Witness** [REDACTED]

Q: Can you tell us what the difference is between a [REDACTED] and a [REDACTED] please?

A: All the [REDACTED] are being called [REDACTED]

Q: Is there any difference between the two words?

A: There is no difference between [REDACTED] and [REDACTED] because we use our country name for [REDACTED]

Q: Which is [REDACTED]?

A: That's why we call ourselves that, we use our land name.

Q: So, the goal of the [REDACTED] people is to establish a free country called [REDACTED]?

A: Yes.

Q: We have heard the name of a group today called the Eastern Turkistan Islamic Movement. Can you tell us anything about this group?

A: Because you call this group the Eastern Turkistan Islamic Movement, we don't call it that. We didn't join that group. When we came to that place [training camp] no one called it the Islamic Movement. We don't call it by that name. Everything is volunteer and nobody asked us to join an organization. Our goals were just to go there to get trained.

**Tribunal President's Questions to Witness** [REDACTED]

Q: Did you train at any other training camp besides the one in Afghanistan?

A: No.

Q: Did you receive weapons training at the camp in Afghanistan?

A: I wasn't really trained on the weapon, I just learned a little bit about how to use it.

Q: What did you hope to accomplish by attending this training camp?

A: It's in the best interest of the [REDACTED] people for me to defend myself because I was living in [REDACTED]

Q: This Tribunal thanks you for your testimony and you are excused. Guards, please return the witness.

A: Can I talk?

Q: No. Only in reply to questions. If Mahnut has no more questions, we thank you for your testimony.

A: The questions you asked don't really apply to his [Detainee's] case.

Q: The questions we are asking, we feel apply in our determination of his [Detainee's] enemy combatant status. You are excused.

*The Personal Representative called [REDACTED] as a witness for the Detainee.*

Detainee: Can I talk until the witness comes in?

Tribunal President: If you would like, you are certainly free to talk.

Detainee: I want you to ask the witnesses anything you'd like that applies to my case. I don't want you to ask him about his own questions.

Tribunal President: You're welcome to request that, but if we feel that your association with that individual and what his activities have been with you, that has a determination in your status.

Detainee: It's okay as long as it helps my case.

Tribunal President: That's why you have the opportunity to ask the witness anything you'd like to help your case. In turn, since you have made him available, we will ask him anything we feel has relevance to your case.

Detainee: Okay.

*The Witness, [REDACTED] was sworn.*

Detainee's Questions to Witness [REDACTED]

Q: Did you stay with me in the [REDACTED] camp in Afghanistan?

A: Yes.

Q: Did you come to Pakistan from Afghanistan with me?

A: Yes.

Q: Are you going to testify that we were captured in Pakistan in the same place?

A: Yes, I will. I was captured at the same time and at the same place with him [Detainee].

Personal Representative's Questions to Witness [REDACTED]

Q: When did you meet Mahnut?

A: End of July, 2001.

Q: How far is the camp from Jalalabad?

A: It ties with another village.

Q: How long would it take to drive there from Jalalabad?

A: Approximately 2-3 hours.

Q: Did you see any fighting while you were at the camp?

A: There was no fighting in the camp, there was bombing.

Q: Do you know who ran the camp?

A: [REDACTED]

Q: How many people were at the camp?

A: During that time, a little over 30 people.

Q: What kind of people were they?

A: All of them were [REDACTED]

Q: Were they ever asked to fight in Afghanistan?

A: There was no such conversation.

Q: Did you ever have any contact with the Taliban or Al Qaeda?

A: No.

Q: Is there any other information you feel would be relevant to this case?

A: No.

Tribunal Members Questions to Witness, [REDACTED]

Q: Outside of your time at the training camp together, did you or Mahnut have any other type of military training?

A: At the camp?

Q: Anywhere.

A: We just ran early in the morning, but we never had any training at any other place.

Q: Was this the first time you've had military training, as far as learning how to use weapons?

A: Yes, the first time.

Q: You said you don't think Al Qaeda gave any help to the [REDACTED] at the camp?

A: I don't know. What is Al Qaeda?

Q: You don't know what that means?

A: I've heard about it from other people, but I don't exactly know what kind of activities they do.

Q: Besides the [REDACTED] who would you consider the enemies of the [REDACTED] people?

A: Besides the [REDACTED] there are no [REDACTED] enemies.

Q: Why did you go to Afghanistan to train?

A: This doesn't apply to his [Detainee's] case. I will tell you about this when it is my turn.

Q: Did you have an opportunity to train in Pakistan?

A: No, I didn't have a chance and also I didn't even want to get training when I was in Pakistan.

Tribunal President's Questions to Witness [REDACTED]

Q: Why do you think Mahnut went to this training camp in Afghanistan?

A: Because he heard about the [REDACTED] in Afghanistan against the [REDACTED] government, that's the one reason he might have gone to Afghanistan. For myself, I went for that reason.

Q: Do you know if Mahnut has had any association with the Taliban?

A: I don't know about it.

Q: Did you also get the training on the AK-47 at the same time as Mahnut?

A: I got the same training, but I trained later.

Q: Did you see Mahnut with a weapon during the training?

A: I don't remember.

Q: This Tribunal thanks you for your testimony and you are excused.

AUTHENTICATION

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

[REDACTED]  
Colonel, U.S. Marine Corps  
Tribunal President



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**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (29 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal -BAHTIYAR, Mahnut.

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 a member of a force engaged in hostilities against the United States or its coalition partners.

Detainee is a member of an extremist organization linked to al Qaida.

1. Detainee was in a [REDACTED] training camp in Tora Bora from June 2001 to November 2001, and left the camp after the United States air campaign began.
  2. Detainee was trained on the Kalishnikov rifle and tactics.
  3. Detainee is a member of the Eastern Turkistan Islamic Movement (ETIM).
  4. ETIM is an Islamic extremist movement linked to al Qaida.
  5. Detainee was arrested with Arabs at a Pakistani mosque.
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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1924

R-1







**U.S. Department of Homeland Security  
U.S. Customs and Border Protection  
Office of Border Patrol**

**NOTE:** This report is based upon information obtained from various open sources. No classified information was used in the preparation of this report.

f Border Patrol  
1624 SSG Sims Road,  
AF,  
, TX 79908  
Address: Attn. BPSCC P.O. Box 6017  
, Texas 79906  
ent D. Thew  
(5) 724-3218

**Terrorist Organization  
Reference Guide**

January 2004

*Pg 1 of 3*

1926 **R-3**

## **46. Continuity Irish Republican Army (CIRA)**

### **Description**

Terrorist splinter group formed in 1994 as the clandestine armed wing of Republican Sinn Fein (RSF), which split from Sinn Fein in 1986. "Continuity" refers to the group's belief that it is carrying on the original IRA goal of forcing the British out of Northern Ireland. Cooperates with the larger Real IRA.

### **Activities**

CIRA has been active in Belfast and the border areas of Northern Ireland where it has carried out bombings, assassinations, kidnappings, hijackings, extortions, and robberies. On occasion, it has provided advance warning to police of its attacks. Targets include British military, Northern Ireland security targets, and loyalist paramilitary groups. Unlike the Provisional IRA, CIRA is not observing a cease-fire. CIRA continued its bombing campaign in 2002 with an explosion at a Belfast police training college in April and a bombing in July at the estate of a Policing Board member; other CIRA bombing attempts in the center of Belfast were thwarted by police.

### **Strength**

Fewer than 50 hard-core activists. Eleven CIRA members have been convicted of criminal charges and others are awaiting trial. Police counterterrorist operations have reduced the group's strength, but CIRA has been able to reconstitute its membership through active recruiting efforts.

### **Location/Area of Operation**

Northern Ireland, Irish Republic. Does not have an established presence on the UK mainland.

### **External Aid**

Suspected of receiving funds and arms from sympathizers in the United States. May have acquired arms and materiel from the Balkans in cooperation with the Real IRA.

## **47. Eastern Turkistan Islamic Movement (ETIM)**

### **Description**

The Eastern Turkistan Islamic Movement (ETIM), a small Islamic extremist group based in China's western Xinjiang Province, is one of the most militant of the ethnic Uighur separatist groups pursuing an independent "Eastern Turkistan," which would include Turkey, Kazakhstan, Kyrgyzstan, Pakistan, Afghanistan, and Xinjiang. ETIM and other

overlapping militant Uighur groups are linked to the international mujahidin movement - and to a limited degree al-Qaeda - beginning with the participation of ethnic Uighur mujahidin in the Soviet/Afghan war.

### **Activities**

US and Chinese Government information suggests ETIM was responsible for terrorist acts inside and outside China. Most recently, in May 2002, two ETIM members were deported to China from Kyrgyzstan for plotting to attack the US Embassy in Kyrgyzstan as well as other US interests abroad.

### **Strength**

Unknown. Only a small minority of ethnic Uighurs supports the Xinjiang independence movement or the formation of an East Turkistan.

### **Location/Area of Operation**

Xinjiang Province and neighboring countries in the region.

### **External Aid**

ETIM is suspected of having received training and financial assistance from al-Qaeda.

## **48. First of October Antifascist Resistance Group (GRAPO)**

**a.k.a. Grupo de Resistencia Anti-Fascista Primero de Octubre**

### **Description**

Formed in 1975 as the armed wing of the illegal Communist Party of Spain during the Franco era. Advocates the overthrow of the Spanish Government and its replacement with a Marxist-Leninist regime. GRAPO is vehemently anti-US, seeks the removal of all US military forces from Spanish territory, and has conducted and attempted several attacks against US targets since 1977. The group issued a communique following the 11 September attacks in the United States, expressing its satisfaction that "symbols of Primero de Octubre imperialist power" were decimated and affirming that "the war" has only just begun.

### **Activities**

GRAPO did not mount a successful terrorist attack in 2002. GRAPO has killed more than 90 persons and injured more than 200. The group's operations traditionally have been designed to cause material damage and gain publicity rather than inflict casualties, but the terrorists have conducted lethal bombings and close-range

MEMORANDUM FOR RECORD

24 Sep 04

FROM Office of Administrative Review of Detained Enemy Combatants (OARDEC)

Subject: List of Coalition Forces in Operation Enduring Freedom (OEF)

1. The following is a list of coalition forces in Afghanistan (numbers include OEF and ISAF)

Albania	Germany	Philippines
Armenia	Greece	Poland
Australia	India	Portugal
Azerbaijan	Italy	Republic of Korea
Belgium	Japan	Romania
Bulgaria	Jordan	Russia
Canada	Kazakhstan	Slovakia
Czech Republic	Kenya	Spain
Denmark	Kuwait	Sweden
Djibouti	Kyrgyzstan	Tajikistan
Egypt	Latvia	Turkmenistan
Eritrea	Lithuania	Turkey
Estonia	Malaysia	Ukraine
Ethiopia	Netherlands	United Arab Emirates
Finland	New Zealand	United Kingdom
France	Norway	Uzbekistan
Georgia	Pakistan	

2. This list is derived from unclassified sources, including a Fact Sheet, dated June 14, 2002, issued by the Public Affairs Office of the United States Department of Defense.

### Personal Representative Review of the Record of Proceedings

I acknowledge that on 20 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #277.

I have no comments.

My comments are attached.

 LtCol, USAF

Name



Signature

20 NOV 04

Date

Comments on Tribunal Results for ISN 277

The detainee requested 17 witnesses who were with him during the period of interest in Afghanistan. These relevant witnesses were limited to two, to be chosen by the detainee, with any more than that being deemed redundant. The convening order makes no mention of the exclusion of relevant evidence based on redundancy. The definition of relevant is:

Relevant information is information having any tendency to make the existence of any fact that is of consequence to the determination to the Tribunal more probable or less probable than it would be without the information.

It is more probable that 17 witnesses are telling the truth than 2, thus the witnesses should have been allowed under the above definition. Further there is a reasonable expectation that relevant witnesses will have information beyond what is anticipated that will elucidate the case.

During the Tribunal at approximately 1520 hours, witness [REDACTED] was finished answering questions. The witness stated that he had additional information for the Tribunal and asked to make a statement. The president declined saying that the only information that the Tribunal needed to know had been asked as questions.

The above mentioned failure to view relevant testimony denied this detainee due process as outlined in the order of the convening authority.

20 NOV 04  
Date

[REDACTED]  
Lieutenant Colonel, USAFR  
Personal Representative

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DAWUT ABDUREHIM,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-2398 (ESH)

**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 Dawut Abdurehim 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: 8 September 2006

Teresa A. McPalmer

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





Department of Defense  
Director, Combatant Status Review Tribunals

OARDEC/Ser: 748

23 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 289**

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 #289 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

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18 Jan 05

MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN #289

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 #12 of 29 Sept 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 to participate by attending the CSRT, by providing an unsworn statement to the board, responding to the summary of evidence contained in Exhibit R-1, and by responding to additional questions posed by the CSRT. See Encl. (2) at Enclosure (3).
- 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. 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.
- e. The detainee did not request any witnesses or any documentary evidence.
- f. The Tribunal's decision that detainee #289 is properly classified as an enemy combatant was unanimous. However, the CSRT "urges favorable consideration for the detainee's release," with no forcible return to China.
- g. The 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.

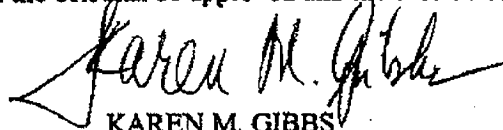
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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 289

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



KAREN M. GIBBS  
CDR, JAGC, USNR



Department of Defense  
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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:

██████████, Colonel, U.S. Marine Corps Reserve; President

██████████, Lieutenant Colonel, JAGC, U.S. Army;  
Member (JAG)

██████████, Lieutenant Colonel, U.S. Air Force; Member

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

06 December 2004

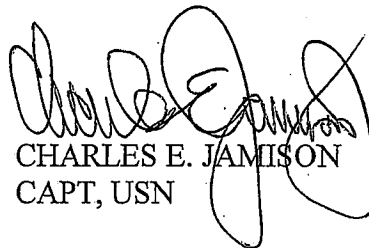
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 289

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).

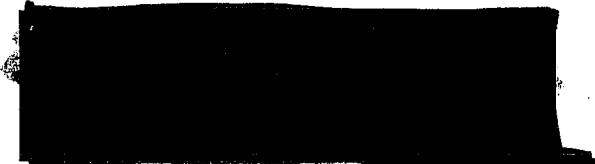
(U) TRIBUNAL PANEL:   #12  

(U) ISN#:   289  

Ref: (a) (U) Convening Order for Tribunal #12 of 29 September 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~~)  
(4) (U) Copies of Documentary Evidence Presented (S/NF)  
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 19 November 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 19 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #289 is properly designated as an enemy combatant, as defined in reference (c).
3. (U) In particular, the Tribunal finds that this Detainee is affiliated with forces associated with al Qaida and the Taliban, which 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).

  
Colonel, U.S. Marine Corps  
Tribunal President

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**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL:           #12            
ISN #:           289          

**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 because he is affiliated with forces associated with al Qaida and the Taliban that are engaged in hostilities against the United States and 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 indicated that the Detainee, a citizen of China, is alleged to have traveled from China to Afghanistan via Kyrgyzstan and Pakistan to receive training at a military training camp in the Tora Bora mountains. The Detainee lived at the Uighur training camp from June to October 2001. The training camp was provided to the Uighers by the Taliban. The East Turkistan Islamic Movement (ETIM) operated facilities in the Tora Bora region of Afghanistan in which Uighur expatriates underwent small arms training. Al Qaida and the Taliban allegedly funded these camps. ETIM is listed on the U.S. State Department's Terrorist Exclusion list. While at the Uighur camp, the Detainee received training on the Kalashnikov rifle, handguns, and other weapons. Following the destruction of the training camp by the United States bombing campaign, the Detainee traveled to a village in Pakistan where he was captured. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no documents be produced, and made an unsworn verbal statement with the assistance of his assigned Personal Representative. The Detainee, in his verbal statement, admitted to some of the allegations in Exhibit R-1, but also claimed that he was not an enemy combatant of the United States or its allies. He said that he participated in military training at a camp in Afghanistan that Uighur fighters were allowed to use. He claimed that the reason he sought this training was because he wanted to train to fight the Chinese government someday in the future, which is the true and only enemy of the Uighur people because they harshly oppress them in China. He claimed no knowledge of the East Turkistan Islamic Movement and denied being a member of it. He also denied knowing anything about al Qaida or the Taliban funding of the camp.

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Enclosure (1)  
Page 1 of 3

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The Tribunal President's evidentiary and witness rulings are explained below.

### **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-14.
- b. Testimony of the following persons: Unsworn statement of the Detainee.

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

The Detainee requested no witnesses or additional evidence be produced; therefore, no rulings on these matters 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. 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 testimony. A summarized transcript of the Detainee's unsworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee admitted to some of the allegations in Exhibit R-1, but also claimed that he was not an enemy combatant of the United States or its allies. He said that he participated in military training at a camp in Afghanistan that Uighur fighters were allowed to use. He claimed that the reason he sought this training was because he wanted to train to fight the Chinese government someday in the future, which is the true and only enemy of the Uighur people because they harshly oppress them in China. He claimed no knowledge of the East Turkistan Islamic Movement and denied being a member of it. He also denied knowing anything about al Qaida or the Taliban funding of the camp.

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.

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**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 requested or deemed necessary.


b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant because he is affiliated with forces associated with al Qaida and the Taliban 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, U.S. Marine Corps  
Tribunal President

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Enclosure (1)  
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Detainee's Unsworn Statement – ISN 289

*The Detainee was initially confused by the Detainee Election Form. He did not understand the request for documents portion. The Tribunal President explained that it meant, for example, passports or other documents the United States Government might be able to access for the Detainee.*

*The Detainee addressed each allegation in the Unclassified Summary of Evidence, with assistance from his Personal Representative.*

- 3(a)1 The Detainee is a citizen of China who traveled to Afghanistan, via Kyrgyzstan and Pakistan, to receive military training at a military training camp in the Tora Bora mountains.

Personal Representative: Yes, I did not have any desire to get military training. I was a businessman and my goal was to go somewhere else to do my business until my country became independent. Then, I would return to my country.

Detainee: You are saying I'm Taliban, but I'm thirty years old. In 1992 and 1993, I was in school. After that, I started my business with animal skins. In Turkistan, I wasn't involved in politics; I was just trying to do my business.

My business wasn't good, so I decided to go to another country to do my business. When my country is independent, I will go back to my country.

I was in school in 1989 when I heard the Russians retreated from Afghanistan, but I hadn't heard anything about Afghanistan and what was going on there. I had nothing to do with the Taliban. I have no association with the Taliban.

You also said I was a Chinese citizen and traveled to Afghanistan through Kyrgyzstan and Pakistan. That's true. Many people travel and they can travel either by air, sea or ground. That's the only way people can travel.

You also said I went to Afghanistan for training, but I did not. It's true that I went to Afghanistan, but before I left my country I had no desire to go to Afghanistan. My goal was to go to some other country to do my business and return to my country when it is independent.

The reason I went to Afghanistan was because other Uighur people abroad told me there was a place in Afghanistan to train to try to fight back against the Chinese government. They said that in the future, if any fighting were to go on, it would be helpful to me to go and get the training.

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The people in Turkistan are not involved in any politics. They get involved in the politics when they travel to other countries because all of the people have one goal: to try to get back our country's independence.

- **3(a)2 The Detainee lived at the Uighur training camp from June to October 2001.**

Personal Representative: Yes, this is true.

- **3(a)3 The training camp was provided to the Uighurs by the Taliban.**

Personal Representative: I did not know that this camp was provided by the Taliban. When I came to the camp, other Uighurs were there. I don't know who provided the camp to the Uighurs.

Detainee: You're saying that the Taliban provided the camp to the Uighurs. I'd like to tell you that the Afghani people and the Uighurs have had a relationship since the 1920's, 1930's, etc. The Uighurs and the Afghani people have a good relationship with each other.

It doesn't matter which government it was. They've been associated with each other for the independence of Turkistan. For example, in the 1920's and 1930's, the Afghani people went to Turkistan to get training on how to use weapons. During that time, the British were in India and in Turkistan. There was an Islamic government and they had a relationship with the Afghans and the British. When the communists came to East Turkistan, the Uighur people went to Afghanistan and got some training.

In the Russian time, I didn't know much, but I read a story by the author Mahine (phonetic) about the Uighurs. The author says that the story has been changed. The Turkistani people's fight is only against the Chinese government.

In the Taliban's time, they just gave a place for the Uighur people. The place we stayed had trees around it. We didn't step into the other people's property. We just stayed where we were.

I just explained a little bit about the relationship between the Uighurs and the Afghan government. It doesn't matter which government it is, the Uighurs and the Afghan government has had a relationship for all those years.

If it wasn't Afghanistan, if it had been Germany or India, the Uighurs will go there. Whoever gives us a place, we will go there.

Additionally, the place given to Uighurs doesn't mean it was only given to me. I'm not the President for the Uighurs. When I got there, it was already there.

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- **3(a)4 The East Turkistan Islamic Movement (ETIM) operated facilities in the Tora Bora region of Afghanistan in which Uighur expatriates underwent small arms training. These camps were funded by Al Qaeda and the Taliban.**

Personal Representative: I don't know anything about this. I don't know anything about who was funding us, but I did participate in small arms training.

Detainee: I told my Personal Representative the name of the weapon. I'd like to explain to the [Tribunal Members].

You are calling us the Islamic Movement, but I don't think it's the Islamic Movement. You've probably seen us; we are twenty-seven to thirty in age. We didn't really understand and we didn't really study Islam either. Also, kids go to school from age seven until they graduate at eighteen or nineteen. After that, they start their business. We don't have any place to study religion in our home country. There is only one place to study that is approved by the government and it's in Urumqi (phonetic) city, and they don't really understand that much about their religion.

When I was in my country, I didn't know how to read the Koran and I had no knowledge about it. When I came to the [Uighur] camp, I started to learn how to read the Koran and how to pray and I learned all the rules. I didn't have a translated Koran. I don't think this is an Islamic Movement.

You might believe me or not. You've been here all this time. We [Uighurs] are still learning how to read the Koran here [Guantanamo Bay, Cuba].

You said it [the Uighur Camp] was funded by the Taliban or Al Qaeda, but I don't have any idea who provided financially for the camp. You're saying it's a camp, but it's not like what we see on T.V. or like your military training camp. It's just a small place. It's not a straight [level] field. It's angled in the mountains with dirt and dust all over the place.

- **3(a)5 ETIM is listed on the state departments terrorist exclusion list.**

Personal Representative: I did not know ETIM was on this list. This is the first time I've known about this. We have no relationships with terrorist people.

Detainee: It says that the Eastern Turkistan Islamic Movement is on the State Department's terrorist list, but have you ever heard of any Uighur people in Afghanistan or around the world doing any terrorist acts? Or of killing Americans, Germans or British people? Have you ever heard of anything like that?

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For example, Kyrgyz, Chechen or Uighur people. Which group have you heard of more? Have you ever heard of Uighurs before?

Also, interrogators would come to us and they would introduce themselves. They said our Turkistani group and the Uighur community was not on the terrorist list. Also, you have a list of terrorist groups with Al Qaeda, Taliban, Uzbekistan Islamic Movement and another one I forgot the name of.

They told us that we're not terrorists and now that this process has started, you're getting twenty-two people for twenty-two different types of evidence and blame. I have no associations or ties with terrorists. It is not right to call Uighur people terrorists.

We have a lot of Uighur groups all over the world and, if we fight against America or some other country, they will blame us and say we are crazy and call us things. Then, if a fight starts between us and the Chinese, we're not going to get any help from anywhere.

You are searching on the Internet for terrorist people. Us, we have two hands. We are just simple people. You have seen me and we are just simple, normal people. We're not special or different and we're not terrorists. That's why it's not right to call us terrorists.

- **3(a)6 While at the camp, the Detainee received training on the Kalashnikov rifle, handguns, and other weapons.**

Personal Representative: I had training on how to shoot the AK-47 and I had training on how to "break down" the handgun, but not how to shoot it. I don't remember being trained on any other weapons.

Detainee: I told the interrogators that I trained on how to shoot the Kalashnikov. I also told them I know how to "break down" the pistol, but I don't remember if I told the interrogators I trained on other weapons or not. It's been a while, but I don't remember. It says here that I trained on other weapons as well, but I don't remember it. I just remembered that there was a weapon that was a little longer than a Kalashnikov that they might name.

- **3(a)7 Following the destruction of the training camp by the United States bombing campaign, the Detainee traveled to a village in Pakistan where he was captured.**

Personal Representative: True. I went to a village in Pakistan and was captured.

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Detainee: That's true. That night, we were sleeping and we didn't know what was going to happen. Then we heard heavy, strong wars; the kind of war we've only heard on television.

The ground was shaking and we were scared, so we ran outside. The next morning, we counted people and we found one person dead; his body was exploded. We looked for his body and we found his fingers and thumbs. Whatever we found, we brought back and buried him there.

We couldn't stay at that place; we had to go somewhere else. We moved around and some places even had monkeys that were also screaming at us. We stayed a while, then went to Pakistan and were captured.

That is all I have about the evidence.

Tribunal President: We may have some questions for you.

Detainee: Include my statement and if there is something you do not understand, ask me and I will explain more.

**Tribunal Members Questions to Detainee**

- Q: Good morning. You have provided us a good background, which we appreciate.
- A: Also, thank you.
- Q: We have a few things we'd like to clarify.
- A: If I remember, I will try to tell you.
- Q: Earlier, you mentioned a group called the Islamic Movement of Uzbekistan. Did you ever have any dealings with the Muslim people in that group?
- A: At that place [Uighur Camp], there were only Uighur people. Maybe you misunderstood me. That name was told to us by the interrogators here in Cuba.
- Q: We understand. The reason I ask is that in Kyrgyzstan, there was an attack on the United States Embassy in the recent past. Did you know anything about that when you were in Kyrgyzstan?
- A: No.
- Q: When you were in Kyrgyzstan with your business, did you have any dealings with the Uzbek Muslims?

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- A: No.
- Q: Had you ever heard of the group called the East Turkistan Islamic Movement before coming here?
- A: It's possible I heard it on the radio.
- Q: Do the Uighur people have a group that they all belong to that calls itself a name close to this?
- A: No.
- Q: You don't consider yourself part of any group that has a name?
- A: No, I didn't hear of any organization name. The people are all individual people. They have a choice; if they want to leave, they can leave. If they want to come, they can come.
- Q: When you went on your travels, did you go with a group of other Uighurs or by yourself?
- A: With other Uighurs.
- Q: When you were in Afghanistan, did the Taliban ask you to do anything for them?
- A: No.
- Q: Did you ever have any dealings with Taliban people there?
- A: No.
- Q: You let them be, and they let you be, in the camp?
- A: We stayed in our place and we didn't know where the Taliban was.
- Q: So, even though they were in the middle of their war, with their enemy, they didn't ask you to fight for them?
- A: I didn't hear anything like that and I didn't see any Afghani people there.
- Q: Besides China, who do the Uighur people consider to be their enemies?
- A: How can we call any other country our enemy? We are in East Turkistan.
- Q: But, the Uighur people do consider China to be their enemy?

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A: Yes.

Q: While you've been at the camp [Guantanamo Bay, Cuba], has the delegation from China come to visit you?

A: Yes. They came and talked to us.

Q: Can you tell us briefly how that went?

A: Yes. During that time, delegations from many countries came. We also asked other Detainees how the delegates treated them. The other Detainees said they were treated well, but it was opposite for us. There were two Uighurs and one Chinese [delegate]. They treated us really bad. I didn't talk to them that much. I said maybe one or two words. Other Uighurs did the same as well.

They asked if I wanted a drink of water. My answer was that I have enough water in my cell and I don't need a drink of water right now. The Chinese person, in Chinese, said "washing water."

They asked if I missed my family, and my answer was "yes, but what am I going to do if I miss my family?" I'm in prison. The Delegate said that if I wanted to go back to my country, he would go back and get the higher General to talk about it. The General speaks Chinese and he works at the American Embassy in China.

I refused to see the General they mentioned. The Delegate asked where I went in Afghanistan and I told him Jalalabad and then after that, I didn't say a word.

The delegates asked me if they could take my picture. I told them that America had my picture and they could give him one. I don't know if he took a picture or not.

They talked to me a second time and told me I had to talk. They said if I talked they would help me get back to my country and provide more comfort for me. They also told us that the U.S. government requested they came over because the U.S. government couldn't handle the Uighur people issues, so they were supposed to come solve our issues. They were representatives of the Communist Party in China.

They also said that I requested political asylum, but now the whole world knows we're terrorists and no country in the world will give us political asylum and that our only chance would be to go back to our country. If I refused to go back to my home country, then I'd go to military court and I would be sentenced and in prison for a long time.

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They asked the other Uighur detainees if they want a drink and the other Detainees said they were fasting. The delegates acted surprised that they were fed too early in the morning.

That's the conversation I had with the Chinese delegation, but some other Uighurs had conversations with bad, dirty language. So, we were told that when we go back to the country, we'd be killed or sentenced to prison for a long time.

Q: If you were to be released, where would you want to go and what would you want to do?

A: The first thing, wherever I go, I'd love to get married first. Then I will look around to try to live my life and make money.

Q: Do you have family at home?

A: I never married.

Q: Brothers or sisters?

A: Yes.

Q: Do you correspond by mail, back and forth?

A: No. Since I've been in prison I've had no communication by mail. They don't know where I am. They think I'm still doing business somewhere.

Q: You mentioned that the reason you left your country was for business reasons.

A: Yes, the reason was for my business and also to live a better life.

Q: I thought you left your country to go somewhere else to start your business. Later on, when you were talking to another member of the panel, you said you traveled with other Uighurs.

A: When I went to Pakistan from Kyrgyzstan, I was with another Uighur.

Q: Okay, so when you started, you were by yourself and then...

A: We were three Uighurs together.

Q: When you left home?

A: Yes.

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Q: Were they business partners, or did they want to go get trained?

A: We never heard about the training. We were individual people doing business.

Tribunal President: Thank you for your testimony. Do you have any other information you would like to make known to this Tribunal today?

Detainee: I want to say that I've been here for three years and you've probably investigated all things in my background, what I did, who I am, what involvements I've had in the past. If not, I want you to investigate and check all of my background. Which school I went to, who my friends were and what I did exactly in the past. I want you to investigate all of this.

Tribunal President: As we make our determination, we will look at all information we have available, as well as the statement we've heard from you today.

AUTHENTICATION

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



Colonel, U.S. Marine Corps  
Tribunal President

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**DETAINEE ELECTION FORM**

Date: 17 Nov 04

Start Time: 10:40

End Time: 11:45

ISN#: 289

Personal Representative: , MAJ., USAF

Translator Required? YES Language? UIGHUR

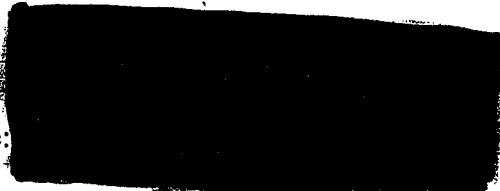
CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

**Detainee Election:**

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

**Personal Representative Comments:**

Detainee will speak to each piece of evidence.  
Detainee will take the oath.  
Detainee decline witnesses/documents

Personal Representative: 

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**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (10 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – ABDUREHIM, Dawud

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 the Taliban.

The detainee is associated with the Taliban.

1. The detainee is a citizen of China who traveled to Afghanistan, via Kyrgyzstan and Pakistan, to receive military training at a military training camp in the Tora Bora mountains.
  2. The detainee lived at the Uighur training camp from June to October 2001.
  3. The training camp was provided to the Uighers by the Taliban.
  4. The East Turkistan Islamic Movement (ETIM) operated facilities in the Tora Bora region of Afghanistan in which Uighur expatriates underwent small arms training. These camps were funded by bin Laden and the Taliban.
  5. ETIM is listed on the state departments terrorist exclusion list.
  6. While at the camp, the detainee received training on the Kalashnikov rifle, handguns, and other weapons.
  7. Following the destruction of the training camp by the United States bombing campaign, the detainee traveled to a village in Pakistan where he was captured.
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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EXHIBIT R-1

1952



Unclassified

Memorandum from [REDACTED] to Capt. Charles Jamison  
Re: REQUEST FOR REDACTION, 11/10/2004

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

[REDACTED]  
IA [REDACTED]

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<http://usembassy-australia.state.gov/hyper/2004/0521/epf505.htm>

## Washington File

\*EPF505 05/21/2004

Fact Sheet: Terrorist Exclusion List Authorized by USA Patriot Act  
(Secretary of state, attorney general collaborate on designations) (1660)

The Terrorist Exclusion List (TEL) was created by the USA Patriot Act of 2001, according to a State Department fact sheet released May 21 by the Office of Counterterrorism.

The secretary of state, in consultation with the attorney general, has the authority to identify terrorist groups that may be excluded from immigrating to the United States or who may be asked to leave the country. This could include any groups that have planned or carried out terrorism, have incited others to do so, or have provided any kind of material support.

The purpose of designating terrorist groups, says the fact sheet, is to deter financial aid to them, heighten public awareness of them, alert other governments to U.S. concerns about them, and stigmatize and isolate them.

Ten new groups were added to the TEL on April 29.

The names of new designees are published routinely in the Federal Register.

Following is the text of the State Department fact sheet:

(begin fact sheet)

U.S. Department of State  
Office of Counterterrorism  
Washington, D.C.  
May 21, 2004

### FACT SHEET

#### Terrorist Exclusion List

Section 411 of the USA Patriot Act of 2001 (8 U.S.C. § 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the Terrorist Exclusion List (TEL) authority. A TEL designation bolsters homeland security efforts by facilitating the U.S.

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Unclassified

EXHIBIT A-3

1955

Unclassified

government's ability to exclude aliens associated with entities on the TEL from entering the United States.

#### Designation Criteria

An organization can be placed on the TEL if the Secretary of State finds that the organization:

- commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- prepares or plans a terrorist activity;
- gathers information on potential targets for terrorist activity; or
- provides material support to further terrorist activity.

Under the statute, terrorist activity means any activity that is unlawful under U.S. law or the laws of the place where it was committed and involves: hijacking or sabotage of an aircraft, vessel, vehicle or other conveyance; hostage taking; a violent attack on an internationally protected person; assassination; or the use of any biological agent, chemical agent, nuclear weapon or device, or explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. The definition also captures any threat, attempt, or conspiracy to do any of these activities.

#### Designation Process

The Secretary of State is authorized to designate groups as TEL organizations in consultation with, or upon the request of the Attorney General. Once an organization of concern is identified, or a request is received from the Attorney General to designate a particular organization, the State Department works closely with the Department of Justice and the intelligence community to prepare a detailed administrative record, which is a compilation of information, typically including both classified and open-sources information, demonstrating that the statutory criteria for designation have been satisfied. Once completed, the administrative record is sent to the Secretary of State, who decides whether to designate the organization. Notices of designations are published in the Federal Register.

#### Effects of Designation

#### Legal Ramifications

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Unclassified



*Unclassified*

Individual aliens providing support to or associated with TEL-designated organizations may be found inadmissible to the United States, i.e., such aliens may be prevented from entering the United States or, if already in U.S. territory, may in certain circumstances be deported. Examples of activity that may render an alien inadmissible as a result of an organization's TEL designation include:

- membership in a TEL-designated organization;
- use of the alien's position of prominence within any country to persuade others to support an organization on the TEL list;
- solicitation of funds or other things of value for an organization on the TEL list;
- solicitation of any individual for membership in an organization on the TEL list; and
- commission of an act that the alien knows, or reasonably should have known, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material for financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training to an organization on the TEL list.

(It should be noted that individual aliens may also found inadmissible on the basis of other types of terrorist activity unrelated to TEL-designated organizations; see 8 U.S.C. §1182(a)(3)(B).)

#### Other Effects

1. Deters donation or contributions to named organizations.
2. Heightens public awareness and knowledge of terrorist organizations.
3. Alerts other governments to U.S. concerns about organizations engaged in terrorist activities.
4. Stigmatizes and isolates designated terrorist organizations.

#### Background

Secretary of State Colin Powell, in consultation with the Attorney General, designated the following organizations, thereby placing them on the Terrorist Exclusion List (TEL). Ten groups were added to the TEL on April 29, 2004.

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*Unclassified*

Unclassified

Terrorist Exclusion List Designees (alphabetical listing)

- Afghan Support Committee (also known as [a.k.a.] Ahya ul Turas; a.k.a. Jamiat Ayat-ur-Rhas al Islamia; a.k.a. Jamiat Ihya ul Turath al Islamia; a.k.a. Lajnat el Masa Eldatul Afghania)
- Al Taqwa Trade, Property and Industry Company Ltd. (formerly known as [f.k.a.] Al Taqwa Trade, Property and Industry; f.k.a. Al Taqwa Trade, Property and Industry Establishment; f.k.a. Himmat Establishment; a.k.a. Waldenberg, AG)
- Al-Hamati Sweets Bakeries
- Al-Ittihad al-Islami (AIAI)
- Al-Ma unah
- Al-Nur Honey Center
- Al-Rashid Trust
- Al-Shifa Honey Press for Industry and Commerce
- Al-Wafa al-Igatha al-Islamia (a.k.a. Wafa Humanitarian Organization; a.k.a. Al Wafa; a.k.a. Al Wafa Organization)
- Alex Boncayao Brigade (ABB)
- Anarchist Faction for Overthrow
- Army for the Liberation of Rwanda (ALIR) (a.k.a. Interahamwe, Former Armed Forces (EX-FAR))
- Asbat al-Ansar
- Babbar Khalsa International
- Bank Al Taqwa Ltd. (a.k.a. Al Taqwa Bank; a.k.a. Bank Al Taqwa)
- Black Star
- Communist Party of Nepal (Maoist) (a.k.a. CPN(M); a.k.a. the United Revolutionary Peoples Council, a.k.a. the People s Liberation Army of Nepal)

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- Continuity Irish Republican Army (CIRA) (a.k.a. Continuity Army Council)
- Darkazanli Company
- Dhamat Houmèt Daawa Salafia (a.k.a. Group Protectors of Salafist Preaching; a.k.a. Houmat Ed Daawa Es Salifiya; a.k.a. Katibat El Ahoual; a.k.a. Protectors of the Salafist Predication; a.k.a. El-Ahoual Battalion; a.k.a. Katibat El Ahouel; a.k.a. Houmate Ed-Daawa Es-Salafia; a.k.a. the Horror Squadron; a.k.a. Djamaat Houmat Eddawa Essalafia; a.k.a. Djamaatt Houmat Ed Daawa Es Salafiya; a.k.a. Salafist Call Protectors; a.k.a. Djamaat Houmat Ed Daawa Es Salafiya; a.k.a. Houmate el Da awaa es-Salafiyya; a.k.a. Protectors of the Salafist Call; a.k.a. Houmat ed-Daaoua es-Salafia; a.k.a. Group of Supporters of the Salafiste Trend; a.k.a. Group of Supporters of the Salafist Trend)

-- Eastern Turkistan Islamic Movement (a.k.a. Eastern Turkistan Islamic Party, a.k.a. ETIM, a.k.a. EIP)

- First of October Antifascist Resistance Group (GRAPO) (a.k.a. Grupo de Resistencia Anti-Fascista Premero De Octubre)
- Harakat ul Jihad i Islami (HUJI)
- International Sikh Youth Federation
- Islamic Army of Aden
- Islamic Renewal and Reform Organization
- Jamiat al-Ta awun al-Islamiyya
- Jamiat ul-Mujahideen (JUM)
- Japanese Red Army (JRA)
- Jaysh-e-Mohammed
- Jayshullah
- Jerusalem Warriors
- Lashkar-e-Tayyiba (LET) (a.k.a. Army of the Righteous)
- Libyan Islamic Fighting Group

Unclassified

- Loyalist Volunteer Force (LVF)
- Makhtab al-Khidmat
- Moroccan Islamic Combatant Group (a.k.a. GICM; a.k.a. Groupe Islamique Combattant Marocain)
- Nada Management Organization (f.k.a. Al Taqwa Management Organization SA)
- New People's Army (NPA)
- Orange Volunteers (OV)
- People Against Gangsterism and Drugs (PAGAD)
- Red Brigades-Combatant Communist Party (BR-PCC)
- Red Hand Defenders (RHD)
- Revival of Islamic Heritage Society (Pakistan and Afghanistan offices -- Kuwait office not designated) (a.k.a. Jamia Ihya ul Turath; a.k.a. Jamiat Ihia Al-Turath Al-Islamiya; a.k.a. Revival of Islamic Society Heritage on the African Continent)
- Revolutionary Proletarian Nucleus
- Revolutionary United Front (RUF)
- Salafist Group for Call and Combat (GSPC)
- The Allied Democratic Forces (ADF)
- The Islamic International Brigade (a.k.a. International Battalion, a.k.a. Islamic Peacekeeping International Brigade, a.k.a. Peacekeeping Battalion, a.k.a. The International Brigade, a.k.a. The Islamic Peacekeeping Army, a.k.a. The Islamic Peacekeeping Brigade)
- The Lord's Resistance Army (LRA)
- The Pentagon Gang
- The Riyadus-Salikhin Reconnaissance and Sabotage Battalion of Chechen Martyrs (a.k.a. Riyadus-Salikhin Reconnaissance and Sabotage Battalion, a.k.a. Riyadh-as-Saliheen, a.k.a. the Sabotage and Military Surveillance Group of the

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Riyadh al-Salihin Martyrs, a.k.a. Riyadus-Salikhin Reconnaissance and Sabotage Battalion of Shahids (Martyrs))

-- The Special Purpose Islamic Regiment (a.k.a. the Islamic Special Purpose Regiment, a.k.a. the al-Jihad-Fisi-Sabililah Special Islamic Regiment, a.k.a. Islamic Regiment of Special Meaning)

-- Tunisian Combat Group (a.k.a. GCT, a.k.a. Groupe Combattant Tunisien, a.k.a. Jama a Combattante Tunisien, a.k.a. JCT; a.k.a. Tunisian Combatant Group)

-- Turkish Hizballah

-- Ulster Defense Association (a.k.a. Ulster Freedom Fighters)

-- Ummah Tameer E-Nau (UTN) (a.k.a. Foundation for Construction; a.k.a. Nation Building; a.k.a. Reconstruction Foundation; a.k.a. Reconstruction of the Islamic Community; a.k.a. Reconstruction of the Muslim Ummah; a.k.a. Ummah Tameer I-Nau; a.k.a. Ummah Tameer E-Nau; a.k.a. Ummah Tameer-I-Pau)

-- Youssef M. Nada & Co. Gesellschaft M.B.H.

(end fact sheet)

(Distributed by the Bureau of International Information Programs, U.S. Department of State. Web site: <http://usinfo.state.gov>)

PAGE 7 OF 7

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### Personal Representative Review of the Record of Proceedings

I acknowledge that on 24 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #289.

I have no comments.

My comments are attached.

[REDACTED], Major, USAF  
Name

24 Nov 04  
Date

[REDACTED]  
Signature

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABDELLI MUHAMMAD FEGHOUL,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 06-0618 (RWR)

**DECLARATION OF DAVID N. COOPER**

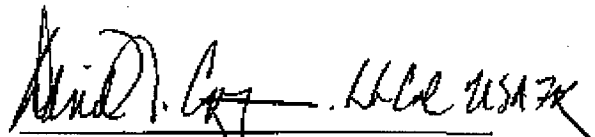
Pursuant to 28 U.S.C. § 1746, I, Lieutenant Colonel David N. Cooper, Judge Advocate, Judge Advocate General's Corps Reserve, United States Air Force, hereby state that to the best of my knowledge, information, and belief, the following is true, accurate and correct:

1. I am a 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 Abdelli Muhammad Feghoul 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: 10 November 2006



DAVID N. COOPER, Lt Col, USAFR  
Staff Judge Advocate  
DOD, HQ OARDEC  
Washington, DC



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

OARDEC/Ser: 857

29 JAN 2005

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 292**

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 # 292 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

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22 Jan 05

MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 292

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 # 29 of 7 January 2005  
(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. He originally indicated that he would attend and participated in the Tribunal process. However, on the morning of the Tribunal hearing, the detainee refused to attend and affirmatively declined to participate in the Tribunal process.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Exhibit D-a of the Record of Proceedings indicates that the original Personal Representative transferred off-island. Since the second Personal Representative explained the CSRT procedure to the detainee, completed the *Detainee Election Form*, attended the Tribunal hearing, and reviewed the Record of Proceedings, the Personal Representative substitution had no effect on the proceedings and in no way prejudiced the detainee. (See exhibit D-a and enclosure (5) to the Record of Proceedings).
- d. The detainee requested one witness, Mesut Sen (detainee #296). The detainee proffered that the witness could testify that the detainee had stayed at an Algerian guesthouse and not at the Darunta Training Camp. Further, the witness would testify that the detainee did not receive any weapons training. The Tribunal President determined that this witness was reasonably available. But when the Personal Representative met with Mesut Sen, the witness refused to respond. The Tribunal Decision Report notes that this refusal to respond was treated as a refusal to testify. While no final determination was made that the witness was not reasonably available, the refusal to testify effectively made the witness not reasonably available. No corrective action is required.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 292

The detainee did not request any other witnesses or evidence.

e. The Tribunal's decision that detainee # 292 is properly classified as an enemy combatant was unanimous.

2. The proceedings and decision of the Tribunal as reflected in enclosure (2) 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



Department of Defense  
Director, Combatant Status Review Tribunals

7 Jan 05

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #29

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, U.S. Navy; Member (JAG)

[REDACTED], Major, U.S. Air Force; Member

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



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

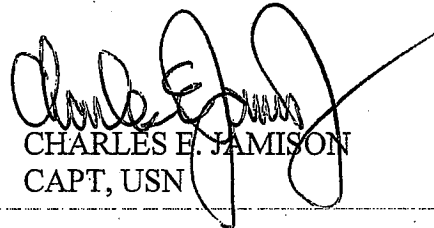
14 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 292

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 (3).

(U) TRIBUNAL PANEL:   #29  

(U) ISN#:   292  

Ref: (a) Convening Order for Tribunal #28 of 7 January 2005 (U)  
(b) CSRT Implementation Directive of 29 July 2004 (U)  
(c) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) Unclassified Summary of Basis for Tribunal Decision (U/~~FOUO~~)  
(2) Classified Summary of Basis for Tribunal Decision (S//NF)  
(3) Copies of Documentary Evidence Presented (S//NF)  
(4) Personal Representative's Record Review (U)

(U) This Tribunal was convened on 8 January 2005 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).

(U) The Tribunal has determined that Detainee #292 is properly designated as an enemy combatant as defined in reference (c).

(U) In particular, the Tribunal finds that this detainee is a member of or affiliated with al Qaida and the Taliban, as more fully discussed in the enclosures.

(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).



COL, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL:       #29        
ISN #:       292      

**1. Introduction**

As the Combatant Status Review Tribunal Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and was part of or affiliated with al Qaida and Taliban forces. 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. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

**2. Synopsis of Proceedings**

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with the Taliban or al-Qaida. The Detainee traveled from Germany to Afghanistan in 2001. The Detainee attended the Darunta Training Camp for 18 days in April 2001. The Darunta Training Camp was a training camp that supported the Anti-Coalition Militia during the Afghan War. While at the Darunta Training Camp, the Detainee learned how to assemble, disassemble, and fire the AK-47 rifle. The Detainee stayed in Jalalabad, Afghanistan. The Detainee was captured in the Tora Bora region.

The Detainee initially indicated that he would attend and participate in the Tribunal. However, on the morning of the Tribunal, the Detainee refused to leave his cell. The Tribunal confirmed that the Detainee was expressly afforded the opportunity to attend, and affirmatively declined. His refusal is reflected on the Detainee Election Form (Exhibit D-a). The Detainee requested one witness. However, that witness refused to participate. The Detainee requested no other evidence be produced or provided to the Tribunal.

The Tribunal President's witness ruling is explained below.

**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-13.
- b. Testimony of the following persons: none.

c. Testimony of the Detainee: none.

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

The Detainee requested the following witness be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Mesut Sen	reasonably available	no*

\* The Detainee proffered that the witness could testify that he stayed at an Algerian guesthouse and that he was not at the Darunta Training Camp and did not receive any weapons training. As such, it appeared that the witness' testimony could be relevant to the Detainee's case. However, when the Personal Representative met with this witness, the witness refused to respond. This lack of communication was, necessarily, accepted as a refusal on the part of the witness to testify for the Detainee.

The Detainee requested no additional evidence be produced.

#### 5. Discussion of Unclassified Evidence

The Recorder offered Exhibit R-1 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. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

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 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. As indicated in Exhibit D-a, the detainee made a conscious decision not to attend his Tribunal. Accordingly, the Tribunal finds the Detainee made a knowing, intelligent and voluntary decision not to participate in the Tribunal process.

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,



COL, U.S. Army  
Tribunal President



DETAINEE ELECTION FORM

Date: 3 Dec 04

Start Time: 0930

End Time: 1130

ISN#: 292

, LT COL -- TRANSFERRED FROM  
Personal Representative: LCDR  UPON HIS DEPARTURE

Translator Required? YES Language? FRENCH

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:**

Initially, the Detainee elected to participate in his tribunal and requested PR read each piece of evidence one at a time so detainee can respond to each. He also indicated that he saw no need to take an oath and elected not to do so.

However, according to the Joint Detention Operations Group (JDOG) just prior to the start of his tribunal the Detainee refused to come out of his cell and therefore elected not to participate.

Detainee requested 1 in-camp witness Mesut Sen, ISN 296. This witness could have testified that the detainee stayed at an Algerian guesthouse, that he was not at the Darunta Training Camp, and that he did not receive any weapons training. However, Mesut refused to acknowledge the PR during the witness interview and therefore is assumed to decline to participate in the tribunal. The Detainee was informed of this during a follow up meeting.

Personal Representative: 

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**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (30 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – FEGHOUL, Abduli


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 the Taliban or al-Qaida.
  - A. The detainee is associated with the Taliban or al-Qaida.
    1. The detainee traveled from Germany to Afghanistan in 2001.
    2. The detainee attended the Darunta Training Camp for 18 days in April 2001.
    3. The Darunta Training Camp was a training camp that supported the Anti-Coalition Militia during the Afghan War.
    4. While at the Darunta Training Camp, the detainee learned how to assemble, disassemble, and fire the AK-47 rifle.
    5. The detainee stayed in Jalalabad, Afghanistan.
    6. The detainee was captured in the Tora Bora region.
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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### Personal Representative Review of the Record of Proceedings

I acknowledge that on 11 January 2005, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #292.

 I have no comments.

My comments are attached.

 LT COL, USAF  
Name

11 Jan 05  
Date



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ABD-AL-NISR MOHAMMED )  
KHANTUMANI, )  
Petitioner )  
v. ) Civil Action No. 05-0526 (RMU)  
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 portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abd-al-Nisr Mohammed Khantumani 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 and foreign nationals in order to protect the personal privacy and security of

those individuals. This individual redacted references to camp names and cell numbers relating to Guantanamo Bay, Cuba, because such information relates to sensitive operational information and security.

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

Dated: 16 August 2005

Teresa A. McPalmer

Teresa A. McPalmer  
CDR, JAGC, USN



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

OARDEC/Ser: 856

29 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR  
DETAINEE ISN # 307**

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 #307 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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19 Jan 05

## MEMORANDUM

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

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN #307

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 #20 of 8 Nov 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:

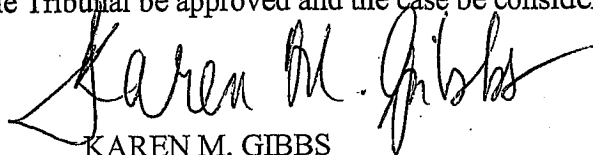
- a. The detainee was properly notified of the Tribunal process and elected to participate by attending the CSRT, and by providing a written statement, an oral sworn statement, and by responding to questions posed by his personal representative and the CSRT. *See* Exhibits D-a and D-b, and Enclosure (3) to Encl. (2).
- 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 documentary evidence be produced. However, the detainee did request that his son, a witness-detainee, (ISN # [REDACTED]) be called to testify on his behalf. The CSRT approved the request, and the witness-detainee testified.
- e. The Tribunal's decision that detainee #307 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 post-tribunal comments to the Tribunal.

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

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL  
FOR DETAINEE ISN # 307

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

A handwritten signature in black ink, appearing to read "Karen M. Gibbs". The signature is written in a cursive style with a large initial "K" and a long, sweeping underline.

KAREN M. GIBBS  
CDR, JAGC, USNR





Department of Defense  
Director, Combatant Status Review Tribunals

8 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #20

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 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

14 December 2004

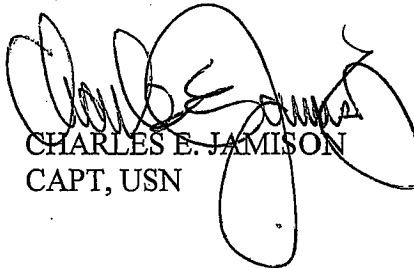
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN 307

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:   #20  

(U) ISN#:   307  

Ref: (a) (U) Convening Order for Tribunal #20 of 8 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) Classified Summary of Basis for Tribunal Decision (S/NF)  
(3) (U) Summary of Detainee and Witness Testimony (U/~~FOUO~~)  
(4) (U) Copies of Documentary Evidence Presented (S/NF)  
(5) (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 3 December 2004, the Tribunal determined by a preponderance of the evidence that Detainee #307 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 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).

  
Colonel, U.S. Army  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION**

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

TRIBUNAL PANEL:           #20            
ISN #:           307          **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 and 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 Tribunal commenced this hearing on 20 November 2004. The Recorder presented Exhibit R-1 during the unclassified portion of the Tribunal. That exhibit, the Unclassified Summary of Evidence, indicates, among other things, that: the detainee is associated with al Qaida or Taliban forces; the detainee, a Syrian national, traveled to Afghanistan in 1999 via Syria, Turkey and Iran, finally arriving in Kabul, Afghanistan; the detainee sent for his family in July 2001 and they arrived in Kabul Afghanistan via a Taliban airline plane; the detainee was on a list of captured Mujahidin members; the detainee allowed Arab fighters to stay in his house; the detainee was identified by a senior al Qaida operative as reportedly being part of a terrorist group; the detainee and his family departed Jalalabad heading towards the Pakistan border as the situation escalated; the detainee and others were turned over to the Pakistani police and were arrested; the detainee was in possession of 100 Saudi riyals and approximately 3,000-5,000 Pakistani rupees; the detainee escaped from custody when some prisoners overpowered the guards and flipped a transport vehicle; the detainee and others were recaptured by the Pakistani police; the detainee was in possession of a Casio watch – a model which has been used in bombings linked to al Qaida and radical Islamic terrorist improvised explosive devices; and the detainee has been identified as being affiliated with al Qaida or other Islamic extremist groups. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings. He submitted a written statement, Exhibit D-b, and then answered Tribunal members' questions. The detainee's sworn testimony and the answers to the questions posed to him are summarized in Enclosure (3) to the CSRT Decision Report. The detainee called one witness.

During the classified session of the Tribunal, the Recorder presented Exhibits R-2 through R-25, commenting only that highlights on the documents in pink were made by the Recorder, those in yellow by the Personal Representative. The Personal Representative neither presented classified exhibits nor made any comments on the classified evidence.

After reading the classified and unclassified exhibits, the Tribunal determined that it required more information. The Tribunal posed a number of questions to the Recorder, and then recessed the Tribunal to allow the Recorder an opportunity to do further research. On 3 December 2004, the Tribunal reconvened. During that session, the Recorder submitted classified Exhibits R-26 through R-29. After considering all of the classified and unclassified evidence, the Tribunal determined that 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-29, and D-a and D-b.
- b. Testimony of the following person:

ISN # [REDACTED] (See Enclosure (3) to the CSRT Decision Report).

- 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's one witness request, for his son [REDACTED] was approved.

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 Exhibit R-1 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. Accordingly, the Tribunal had to look to other evidence to support the assertions in the Unclassified Summary of Evidence.

b. As noted in paragraph 2, above, the detainee submitted a written statement and provided sworn testimony, responding to each of the allegations on the Unclassified Summary of Evidence. Afterwards, he answered questions posed by the Tribunal members. In sum, the detainee denied being a member of the Taliban or al Qaida. He asserted instead that he was a businessman in Kabul, drawn to Afghanistan from Syria by Kabul's superior business environment. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). His written statement is attached as Exhibit D-b.

#### **6. Consultations with the CSRT Legal Advisor**

The Tribunal consulted the CSRT Assistant Legal Advisor regarding allegations made by the detainee in his written statement and in his testimony that he was tortured by Pakistani officials in the presence of U.S. officials and in a U.S. facility, and that he was abused by U.S. soldiers. His son, detainee # [REDACTED] also testified that he was abused. As per instructions, the OARDEC Forward Chief of Staff and the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO were notified of the matters on 22 November 2004.

#### **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 throughout the hearing.
- c. The detainee is properly classified as an enemy combatant because he was part of or supporting al Qaida and 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,

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

**Summarized Sworn Detainee Statement**

*The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.*

*The Recorder presented Exhibit R-1 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).*

*The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.*

*The Detainee took the Muslim oath.*

*The detainee submitted a written statement with answers in regards to the accusations; it was translated into English for the tribunal. The detainee entered this document as Exhibit D-B.*

*The Tribunal President stated a short recess would be necessary so that the tribunal panel can read the detainee's statement Exhibit D-B. Then the tribunal members will ask the detainee questions in regards to his statement.*

**Recorders' Questions**

Q. What type of airline or flight did you fly your family on to get to Afghanistan?

A. I didn't use the airliner.

Q. How did your family get to Afghanistan?

A. I contacted them at my sisters' house, and then they came by vehicle.

Q. Your family did not fly to Afghanistan?

A. No.

Q. How many people in your family traveled to Afghanistan?

A. My mother, wife, youngest son, the son that is here with me, and then my brother and his wife and children came down. They came to Afghanistan this way.

Recorder: Thank You.

**Tribunal Members' Questions**

Q. You arrived in Afghanistan in 1999, is that right?

A. Yes.

Q. When did your family join you in Afghanistan?

A. I personally don't know the time frame, my son told me it was in 2001. I don't know how to count the months.

Q. Do you know if that was before or after September 11?

A. Before.

Q. You were staying in Kabul?

A. Yes.

Q. When did you leave Kabul?

A. We heard about the problems that happened in America, and we wanted to leave Afghanistan.

Q. Before the bombing started in Kabul?

A. Before everything. We wanted to save our lives, and that's why we wanted to leave before it started.

Q. When did you get separated from your family?

A. I don't know exactly, it might have been the first of Ramadan or the second of Ramadan.

Q. How did that happen?

A. The guide that was helping us to leave told us to leave. He came and said we have to leave quickly because things are getting worse.

Q. How did the family get separated?

A. When we were all together, the guide told us we had to leave from Jalalabad to the village. The family and I stayed there for two days. The guide came to this village and said we cannot take all of you; we cannot take the men.

Detainee: The guide said that we have to choose two men; two men will have to stay here. We can manage to take all the women and the children. I then watched my family get into the car, after that my son and I stood there. Everyone else left. I am not sure which way they went.

Q. There are statements in here that you have been tortured and abused. Have you been tortured or abused by any United States personnel?

A. I don't know if they were Americans or not. They did not torture us personally or physically, but the Pakistan authorities were torturing us really hard, and they were looking and standing right there. The Americans were present. I am sure about that because they were the one who interrogated us.

Tribunal President's Questions.

Q. You indicated in your statement that your family was very poor. How did you pay for your trip from your country to Afghanistan?

A. I didn't say that my family was really poor; I said we have economic problems and poverty problems in Syria.



Q. So you traveled by land in a car, bus or taxi?

A. I used mainly the big bus; like Greyhound.

Q. When you left Syria, did you go to any other country before going to Afghanistan?

A. I went through Turkey, Iran, then Afghanistan.

Q. At any time when you were in Afghanistan, did you or your family have to have weapons to protect yourself?

A. No, I didn't have to have a weapon to protect my family. The city was usually very peaceful and you didn't need protection. I never had any problems.

Q. Did you need any financial support from anybody in Afghanistan while you there? When you first got there?

A. No.

Q. Where did you stay when you first arrived in Afghanistan?

A. You mean which region in Afghanistan?

Q. The city or village?

A. Kabul.

Q. You spent the entire time you were there in Kabul?

A. Yes.

Q. Why did you pick Kabul?

A. There is economic activity, which means work.

Q. While you were in Kabul, did you see any fighters or soldiers in and around the city or the place you were staying?

A. No.

Q. When you first arrived in Kabul, did you stay in an apartment, hotel, or guesthouse?

A. When I first arrived I stayed in a hotel. After that, four of the Afghani intelligence came at night to talk to me in Arabic. They said there is an Arabic man here, and they took me to that man the following morning. They introduced me to this man, gave me his name, and said you are going to stay with me. That is how I stayed with him for free.

Q. Do you know the name of this man?

A. [REDACTED]

Q. You identified him in your document?

A. Yes.

Q. Did you have to pay him to stay at his place?

A. No.

Q. Did you have to perform any duties or responsibilities while you were there?

A. No. I used to prepare my food and sometimes they ate what I cooked.

Q. Was this place a hotel, guesthouse or the house of your friend?

A. It was just his house. I stayed for nine months with him and I never saw anyone at his house.

Q. He was there all alone? It was just you two?

A. He had a family.

Q. Once your family arrived, you moved into your own place?

A. Yes, I went to get us a place. Also, once my family arrived, I saw less and less of the man.

Q. You had your passport when you left Syria?

A. Yes. My passport was legal; it had all the stamps in it.

Q. When you were captured, you had your passport?

A. Yes, it was in my son's jacket.

Q. Your son told you he had your passport?

A. Yes.

Personal Representative Questions

Q. You sent for your family in July 2001 then arrived in Kabul, Afghanistan, via Taliban airline plane?

A. This was a civilian plane, for everybody. It is not Taliban plane.

Q. When we first met, you said you contacted your family, you waited for them in Herat, then they traveled on Ariana Airlines, a civilian airline. Is this true?

A. When I contacted my family, they came to a border area called Harivat, a border city. I was there at the reception area.

Q. Did your family arrive on Ariana Airlines, a civilian airline?

A. I told you they traveled by land.

Q. Were you ever actually on the transport vehicle that was overpowered by the prisoners?

A. No. I did go into details in my statement about all of this. We were in prison, my son and I, and the Pakistanis tortured us to the point that we admitted we were on the bus. They said to be careful. If we changed just one word in what you say to the Americans, they were going to bring us back kill us. So, we were told not to change a word. You are looking for the truth right?

Tribunal President: Yes.

Detainee: As I said, the land trip was from Turkey to Iran to Afghanistan. Our trip was legal; we had our documents with our passports. I did mention that I brought my brother's wife just one week before the incident that happened in America. Do you think if I knew these things were going to happen that I would take my family and my brother's family there? My mom is 70 years old. I have grand kids; the baby is 8 months old. By looking at that, you will see I am not a terrorist. Let me ask you, would you take your family there if you knew that was happening? It is up to you, just be fair and just. I was looking for happiness for my family and look at me now. You can go to Afghanistan without any papers and I have all my families' passports. Before I went to Afghanistan, I first went to Saudi Arabia just to see the cost of living. It was too expensive though. This white hair that you see is proof I have worked hard. My father died when I was really young. When he died, I had to support my family. My younger sister was only one year old. Since I was 9 years old, I have had many hard jobs.

Tribunal Member: How did you get your family from Herat to Kabul?

Detainee: By plane.

Tribunal Member: What type of plane?

Detainee: Ariana. It is the only normal, civilian airline. They are well known; you can look them up if you like.

*The Tribunal President stated a recess is necessary to bring in the witness.*

*The witness was brought in to testify on behalf of his father (the detainee).*

Tribunal President: What is your name?

Witness: [REDACTED]

Tribunal President: [REDACTED] I want you to understand you are a witness for your fathers' tribunal. The tribunal will ask you questions to clarify some issues on the unclassified summary that your father made. Then your father will ask you some questions. This is not your tribunal.

*The witness took the Muslim Oath.*

Personal Representative: Why did only you and your father travel to Pakistan, and not your whole family?

Witness: When we arrived at the village, we were all together. The guide told my father that there robbers in the roads. Of course, we had women and children with us. There were about 14 to 16 people: 4 women, 8 children, and us. The guide said it was dangerous for us if people see us traveling with women and children and men. They might kill the men and keep the women.

They told us that we had to choose: leave two men here and we'll will take two of the men with us. So, my uncle and my brother in law went with the family, and my father and I stayed there. After that, we went to Pakistan in separate directions. We heard that they were killed. I was even told here 3 times that the Americans killed our family. The soldiers here even threatened to kill me. If you don't believe me go, back to my file and look on the computer and you will find that information. At that time, I even did something really good. I found a piece of metal about 26cm long, and I gave it to the soldier right away. After that, he brought me back to my cell. He wanted me to wash up. Then he started threatening me. He said "I will cut off your head." After that, some other people that were in charge came in and threw that soldier out. They took my father to the emergency room because he was really sick and in bad shape cause he was upset at that time. Just now, I found another piece of metal and the guard came in the room to get it.

Tribunal Members' Questions

Q. Why did your father go to Afghanistan?

A. The only thing I knew was that he was going to Saudi Arabia. Why he went there, I don't know. He first told the family he was going to Saudi Arabia to work. That is all.

Q. Once he arrived to Afghanistan, did he call or write letters to let you know he was in Afghanistan?

A. We don't have a phone at home. But he did call my aunt and told her to tell us to come and join him. Then we first went to Iran. He called my aunt's house after 4 days to ask where we were at, and she told him we had just left. We got to the hotel in Iran and called our aunt to tell her what hotel we were at. Then he called my aunt and she gave him the information about us. Then he called the hotel. After that, we came to join him.

Q. You all had passports and visa's with all the stamps?

A. Yes, everybody did.

Q. Were you arrested with your father? Captured with your father?

A. Yes.

Q. Where were your two passports when you were captured?

A. They were with me.

Q. Both of them?

A. Yes. He didn't know his passport was with me.

Q. Were both passports picked up when you were captured?

A. Yes, they were taken by the Pakistani authorities.

Q. After you were captured, were you ever involved in an escape?

A. The interrogators talked about this incident with us so many times. If you look at my nose, you can see it is broken. They took us to the first prison where we stayed for five days. Then, we went to the second prison where there were a lot of people. Then, we were sent to the third prison. After that, they asked us who was in the bus. We didn't know anything about a bus. I don't know why they took me and they separated us. They tortured me a lot. I know that you can see that by looking at my nose and see that it was broken.

Q. Was that done by a Pakistani or an American?

A. Pakistani. It was an unfortunate thing that Americans were present and they could see that they were torturing us. All that torture was just for us to say we were on the bus. We didn't know anything about this bus. We tried to say no, no, no, but they just keep torturing us. Then they broke my nose and I said I was on the bus. After they tortured us, the Pakistanis said we were going to America for two days. They said if we changed what we said, they would come and kill you, definitely for sure.

Q. How old are you?

A. I think about 22 years old.

Q. What did you do in Syria before you went to Kabul?

A. I was a student.

Q. What did you do in Kabul?


A. I came to visit my father, with my family.

Q. You went to Kabul to stay permanently, didn't you?

A. I didn't know in the beginning where I was going. All that I knew when I left Syria was that we were going to Iran, and from Iran to Saudi Arabia. At that time I was only 17. At that age, it was not my place to ask where we are going.

Q. Was life in Kabul better than life in Syria?

A. I didn't go anywhere. I went to the store and then went right back. I had some problems with my dad, because I really wanted to go back and finish school.

Q. Do you know ?

A. No.

Q. You never met him?

A. No.

Q. Have you ever used a weapon?

A. No.

Tribunal President's Questions.

Q. What was your father's business in Afghanistan?

A. He was preparing food for a restaurant. I've never seen or been to the restaurant.

Q. The place that you lived, was it a house or a hotel?

A. It was my father's house; we were renting it.

Q. Do you remember seeing any people coming and going from your house? Renting a room?

A. To begin with, the house was really small. There were 16 people living in that house.

Q. Is that a yes or no?

A. No. Sorry, I meant to answer the question.

Q. Were there any weapons in the house? Any weapons for protection?

A. When we were in Jalalabad, there was a gentleman who used to walk with my father who had given a small pistol to my dad for protection.

Q. Did you ever have to use the pistol?

A. No.

Q. Did anyone in your family have to use the pistol?

A. No, we never used it at all.

Q. When you were leaving Jalalabad, did you have to flee or escape to the mountains?

A. Yes, after we went to the first village and the second village, there was no other way and there were no roads open. So, we had to go to the mountains.

Q. Did you have to stay in the mountains?

A. Yes, when we rested at night.

Q. How long did it take you to get through the mountains?

A. I really don't know. But I think it was 3 days.

Q. Did you have assistance leaving the country? Did you have a guide?

A. Yes, we were forced to have someone guide us since we didn't know the area. Whenever we got to the village, people would help us to the next village. Then we got to the road leading into the mountains. We had two guides help us since we didn't know where to go.

Q. Did you travel with a group of people to get to Pakistan?

A. It was just those two Afghanis that were with us; they said they will stay with us to Pakistan.

Q. Where you actually across the border into Pakistan when you were arrested?

A. Those to guy took us to a village and said this was it, they said it was our Embassy and they will be able to help us; but instead it was a jail.

Q. Did the people that took you to the jail. Did they have weapons with them?

A. No.

Witness: If I may add something, you were talking about weapons. In Syria you are not allowed to have a big knife, if you have one they will take you jail and they will give you a big fine. That is why I have no knowledge nor do I have anything to do with weapons. I went from home to school, and from school back home.

*Tribunal President asks the detainee if he has any questions for his son?*

Detainee: When you asked me if I had a weapon to defend my family or something of that nature. It was different in the question you asked my son. The question to me didn't guide me answer the same thing about the pistol.

Tribunal President: If I asked you the same question that I asked your son what would be your answer?

Detainee: I would have told you that yes; I had the pistol to protect the house from robbers.

Witness: Tell her in all reality we had no problems with nobody. I know it is not my tribunal by I wanted to clarify, that you would an enemy combatant that I would have spent three years hear without ever causing a problem. Also this metal issue, I found it and told the guard. In [REDACTED] I seen a big hole/opening there and I reported it. Even now when I was waiting to come into here I found some metal and told the guard that is standing outside.

*Tribunal President stated a brief recess is necessary to remove the witness.*

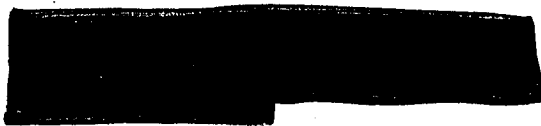
Tribunal President: Abd al Nasir do you have any other evidence to present to the tribunal?

Detainee: No, that is all I have. I just wanted to thank you. I want you to really take into consideration; you should really want the truth or if you don't that is up to you. I have been telling you the truth. We are all going to die and everybody will get his share in this or another life.

*The Tribunal President confirmed that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explained the remainder of the Tribunal process to the detainee and adjourned the Tribunal.*

**AUTHENTICATION**

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



Colonel, United States Army  
Tribunal President





UNCLASSIFIED

**Combatant Status Review Board**

TO: Tribunal Member

FROM: OIC, CSRT (05 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – KHANTUMANI, Abd Al Nasir Muhammad Abd Al Qadir

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 or Taliban forces.

The detainee is associated with al Qaida or the Taliban forces.

1. The detainee, a Syrian national, traveled to Afghanistan in 1999 via Syria; Turkey and Iran; finally arriving in Kabul, Afghanistan.
2. The detainee sent for his family in July 2001 and they arrived in Kabul Afghanistan via a Taliban airline plane.
3. The detainee was on a list of captured Mujahidin members.
4. The detainee allowed Arab fighters to stay in his house.
5. The detainee was identified by a senior al Qaida operative as reportedly being part of a terrorist group.
6. The detainee and his family departed Jalalabad heading towards the Pakistan border as the situation escalated.
7. The detainee and others were turned over to the Pakistani police and were arrested.
8. The detainee was in possession of 100 Saudi riyals and approximately 3,000-5,000 Pakistani rupees.
9. The detainee escaped from custody when some prisoners overpowered the guards and flipped a transport vehicle.

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10. The detainee and others were recaptured by the Pakistani police.
  11. The detainee was in possession of a Casio watch – a model which has been used in bombings linked to al Qaida and radical Islamic terrorist improvised explosive devices.
  12. The detainee has been identified as being affiliated with al Qaida or other Islamic extremist groups.
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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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1999

## Detainee Statement (ISN 307)

I, the detainee Number 307 would like to thank you for giving me the opportunity to defend myself and to clear myself from these charges against me, but before I start defending myself, I see that it is necessary for you to know a few things about me and my case, especially that you didn't review anything of what happened to me during the three years of my detention.

I am going to start with my life in Syria this country where poverty is rampant and also economic problems, and you know Syria very well and its economic problem that made making a living and putting food on the table and getting the household necessities, especially for a poor person. I was always looking for an alternative country that I could immigrate to and live with my family. I thought about going to the free world which is the western world, especially after I heard a lot about freedom, stability, justice in these countries but all the doors were closed and I tried to go to Saudi Arabia and I was finally successful and I went there in 1999 to investigate and to see the way of living in that country but I realized that getting residency is almost impossible and the cost of living is high. I came back to Syria and I heard afterwards about Afghanistan and this was through television and I made the decision to travel to this country and to check the situation myself and see if it was suitable for me to live there with my family.

I traveled to Afghanistan at the end of 1999 and when I arrived there I found that it is stable and safe country and there were no problems during my stay there and 9/11 incident didn't happen until after my family got there. I was self employed by selling prepared food in afghan markets and this was my job in Syria and I kept working this way in small manner for about nine months, after that I bought a small kiosk and I started working in bigger and broader way at the same time I decided to bring my family and my work continued in this kiosk for about seven months, and after approximately one year and four months had gone by I was doing very well. I brought my family and they were about fifteen people, among the ten people that came first were my mother, she's sixty seven years old, my wife, my daughter, my oldest son and my youngest son, who is fourteen years old, my daughters husband, my daughter's three kids and their ages are eight months, one year, two years, my younger brother, and these were their ages when they came to Afghanistan.

I would like to tell you some very important things:

The words like "Al Qaeda", "Taliban", "Mujahideen", "Jihad", "Parties", I didn't know them before and I acquired the knowledge about them at this place from the interrogators. The arrival of my family to Afghanistan, among them my mother, who is old in age, and my daughter's son, who is young, and other women, is clearly showing you my truthfulness and my good intentions and the goal that I left for.

I would like to tell you the story of the last members of my brother's family, and they are (my brother's wife, his kids, their ages 5,6,2,10 and 12 years). They arrived to Afghanistan just one week before the incident of 9/11/2001, so if I did have any relation or any connection or if I am a Mujahideen member of Al Qaeda or the Taliban, I wouldn't have brought my family first of all, or my brothers family, just one week before the 9/11 incident, second of all. And this does not make sense and it is unbelievable that I am from the Taliban or Al Qaeda or Mujahideen member, so how could I bring my family to death if I was? I would like you to understand this very well if you would.

Also among the very important matters is how we got to this place.

Our residence was in Kabul and after we heard about the 9/11 incident and the tension and the preludes that indicated that there will be a war from the American forces, I started looking for a way and quick solution to save myself and to save my family from this tragedy that will be and that will affect civilians like myself and my family, I went to Pakistan, fleeing from this situation. After I parted from my family in Jalalabad, and that was in the second day of Ramadan and at that time the only one left with me was my son, who is with me here. And I didn't receive and news about my family except that the soldiers informed us that the American authorities killed them.

I had many illnesses afterwards, but after our arrival to the village in Pakistan, some of the villagers turned us over to the Pakistani Authorities and this was without committing any crime or any illegal act. And in spite of that we were delivered to the Pakistani Authorities. During our stay in the Pakistani jail, we suffered harsh beatings and terrible torture. And all this was a movie arranged by the Pakistani authorities to get us into the bus problem and we didn't know and we didn't see this bus, but this was an empty story arranged for us by the Pakistani military and during the beating by son's nose was broken and the American doctor examined him in this place and after the examination he determined that he needed a surgical operation, but he said that will happen in six months and the doctor didn't come back and I was struck by many illness and he was too and the details about this bus issue will come during the bus accusation.

Note: During our torture in the Pakistani jail, there were two American officials knowing that we were not allowed by the Pakistani or American authorities to meet a lawyer or a humanitarian organization or ambassador and they didn't present us with any accusations. Regarding the presence of the two Americans during torture, if you think this is an imaginary story I will tell you two proofs showing that this thing happened before with others and with us, this happened with the Iraqis when you entered Iraq, Iraqis were tortured in the presence of American and there were pictures as proof that came out to the world and those Americans were tried and this is the story according to the interrogators. And we were tortured upon our arrival to Kandahar and we were subject to harsh beating and my nose was broken (illegible) and the Red Cross saw that and wrote a report about it and this person still is in that place.

And also we weren't allowed neither in Pakistan nor Kandahar to meet with any lawyer or humanitarian organization to clarify our legal situation and the operation of our transfer from Pakistan to Kandahar wasn't subject to the local laws or to any international laws. And the beating and the torture of the detainees in the prisons-in Pakistan and Kandahar and other prisons like Syria that the interrogators threatened us with-its known by all organizations and everybody and especially you know that. Upon our arrival to Kandahar, the military investigated with us many times and in Kandahar the treatment was very very bad, which included deprivation of sleep for long hours, deprivation of going to the bathroom and other humiliations and the duration was one month and also in Pakistan I also remember another time my forehead was broken and my arm was fractured and this was done by American soldiers. After that we were transferred to Guantanamo Bay, Cuba- and the treatment was very bad also.

Today when you look around you in this prison, you see that a lot of soldiers are polite and they treat the detainees in a way that is not bad at all and also the health of the detainees is not bad. Also in the past few weeks the food improved and the people in

charge always tell us the situation will improve and they will be better in the days to come. Therefore I want to bring your attention to this sentence that was repeated by the interrogators and the people in charge in this place, that the situation will improve a lot. Be aware and sure that this proves that the treatment was bad initially and the pressure and the bad treatment in this place continued for approximately two years or more.

After the introductions about my life and what happened to me and my son I will try to start to respond to the accusations against me, to try to defend myself and my son.

You are aware that I was not allowed to get a copy of the accusations and I wasn't given a translated copy from the translator so I could think about it and prepare my defense.

This is concerning myself, but I could remember many of them but it wasn't in the same order you have.

First Accusation: You addressed this accusation at me by saying that I am from Al Qaeda and the Taliban.

I am neither from Al Qaeda nor from Taliban or any other organization, neither directly as a member, or someone in charge, nor indirectly as support or otherwise. On the contrary, I hate everyone who commits hostilities against any person in the world or any country and I said during the interrogations that when the 9/11/2001 incident happened, we were very sad and we cried, me and all my family, especially my old mother, she said, "what's the crime of innocent people, to be killed?" We all love for everyone in the world to live in peace and security, whether the person is Muslim, Christian, Jewish, or anything else. One this earth, everybody should live with freedom, justice and peace. In this place and through your observations or me and my son, you know that have no relation with anyone from Al Qaeda and Taliban fighters. For all our time in this place, we never caused any problems to any of the soldiers or the interrogators, if you review our behavior file, you will see all what we did and you will affirm that we don't have any relation with anything in spite of all the pressures around us from the clinic, the interrogators, the soldiers, we always give the best cooperation with everybody and in spite of me being separated from my son for approximately one year, I stayed, my son and I without problems and from the stories that happen here, you will know if we are your enemies and combatants against you or not. Many times, approximately five times, I saw pieces of metal in the walking area and I delivered it to the guard and also my son saw a piece of metal 20 cm long, he brought it immediately and gave it to the soldiers and after this good act immediately one of the soldiers threatened his life. This is all documented by the date and the hour, if we were combatants, we would have hidden it and used it as a weapon so I would like you to understand that very well if you would. I would like you to tell me and I will be extremely thankful about the way I could defend myself, how could a detainee in this place who has only his only his bed and his clothes defend against such accusations, if I tell you I am ready to swear a hundred times that I am innocent from these accusations and is this is what you want, then I am ready. And if you want me to talk about my story in Afghanistan with ample details and how I used to prepare the food at night and I would leave at dawn to go to the markets and sell my food and I come back home right before dusk and I repeat the same thing the following day by preparing the food and going to the markets, I didn't have any significant relationship with people except two individuals, one of them my associate, he used to help me in buying supplies and other thing and managing work and his name was [REDACTED] and I was living in his house-and this was before the arrival of my family- and the

food was prepared and cooked in his house and the other person that I knew in Afghanistan is the person that was introduced to me by [REDACTED] and this person used to work with us in selling food in the markets because he mastered Arabic and Farsi and he was honest in his work and his name was [REDACTED]. My relationships in Afghanistan did not exceed these two individuals and I am swearing to you today that what I am saying today is the truth and this is my case and my story as it happened and I assure you if these two individuals were asked to testify in this tribunal about my story and my truthfulness of my words that I am saying today, they will swear and testify to that. Another side issue, I would like to tell you about, which I told the interrogators before; it is the story of my departure from Afghanistan to Pakistan. The individual who helped me and prepared the way in those very difficult days was [REDACTED] who was working with us in the restaurant. The methods that I was subjected to, me and my son and others, during the interrogation, was disgusting and subject to suspicion and contained a lot of intimidation and if they weren't successful with the intimidation, they tried to arouse our interest and among the things they used to say to us all the time is "Just say you are Al Qaeda or Taliban and there will be no problem" (I was subjected, my son and I, during our stay in the old prison and the current prison to threats and intimidation to be delivered to Syria and other countries to be tortured, and one of the interrogators in the old prison drew some knives as a form of torture and he brought two electrical wires and he said if you didn't say that you are from Al Qaeda, I will put these on your neck) and we refused to say these words because we weren't like that and I am not exaggerating that they repeated this sentence more than a hundred times at least and also after they separated us they used to tell my son, "Say that your father is Taliban or Al Qaeda and if you say so we will release you from this place to your home and they offered him many forms of temptation and threats and they also told him, "If you say that your father is Al Qaeda or Taliban, we will release you from this place and we will give you money, houses, cars and American citizenship, but he refused and he stayed true to what he had been saying all along, which is our words to them, "if you wanted the truth, the truth has no Al Qaeda or Taliban or fighting or terrorism or anything of this nature, but the truth is hard work in the Afghani markets-Kabul" If what the interrogators that presented these accusations were saying was true, it would not have been necessary for tens of them to pressure me and my son all this time to say that we are from Al Qaeda or Taliban or fighters or terrorists.

If you want me son to testify that I am not Al Qaeda or Taliban or a fighter or a terrorist he is ready and willing to swear.

(Line Illegible-Page 8)

We have to understand very well the meaning of the words and terms used in this sentence, "Mujahid Member". As I learned during the past three years and as I understand linguistically from the two words Mujahid Member, is that for somebody to be described as such, he has to carry a weapon first, then go to a place where the enemy is and participate in some sort of military confrontations and there is no doubt before that he has to have trained on carrying a weapon and on different military matters and for sure as you know, being military, the first step is the most important in the military training and that could take some long time and lets take a look together to my son and his official papers, that you have, or it is with the American authorities. And what I mean by official papers is the passport. Lets look at his date of entry into Afghanistan, when was it, and

lets look also to the date of his capture, when was it, at the time we will know the length of his stay in Afghanistan.

I say the date of his entry to Afghanistan was the end of the sixth month of 2001- and our detention date was the twelfth month of 2001- so from his arrival to Afghanistan until the time of his capture is a period of five months. Among these five months, one month was full of problems and we didn't have stable housing or lodging and that's because we had the intention of leaving Afghanistan because of the reason you know, which is war, so we are left with four months and I would like us to agree with each other that anybody who come to a strange country needs some time to adjust with the climate and the people, in particular regarding my son, he hadn't seen his father in a long time and he came to see his father and to visit with him and no doubt he needs to spend time with his father so let us say that he needs one month at least to see his father and spend time with him, therefore the period is now only three months. So lets say a person who is eighteen years old, who doesn't have any background in using weapons and the art of fighting and war, he came from his country, Syria, to a new country for the first time he steps foot in this country, and he came to this country with women and children, so how can he become as you say, a Mujahid member, this is an impossible thing, and the sentence Mujahid member, the meaning of the first word (member), that he is a member of a group out of many groups, and as we said before, to be a Mujahid member, as you say, he would have had to participate in some kind of fighting against some kind of enemy. What enemy is this that my son fought against and he didn't know the country or the language or the people and he didn't have the necessary time to be as you say a Mujahid member. And he didn't know anything of these matters we are talking about now, for these talk is not true and it is unrealistic and I can prove that to you with solid proofs and if you want I can swear to that and I am ready to do that. Even though I don't know the people, the language, and the country.

Observation 1: I would like to inform you that in this country of Syria nobody is allowed to carry a machine gun, pistol or even a knife that is one finger long and the punishment for whoever carries this knife is prison for no less than one year and a monetary fine and for the person who carries a machine gun, the punishment is prison for life. My son, even in Syria, never committed any hostile act against anybody and he never carried, or could carry, anything that could be considered as a weapon, so how could somebody like him come to Afghanistan and in a very short period of time become Mujahid member? This talk is not true and unbelievable. And also you can confirm yourselves whether my son is a fighter or not from his stay in this place for these past three years by looking to his behavior. If you look into this matter you will see that he was always helpful to the soldiers and to the interrogators, and he never had any violent fits, or any strong reactions, inside or outside the prison, knowing that the psychological pressures that he was subject to were very very strong, among them the threats, he was threatened by the soldiers to be killed, him and his family, and the pressure on him for eight months after they separated him from me during the interrogations, he used to be taken and left in the interrogation room for hours without interrogators under the air conditioner, and other humiliations. In spite of all that, he didn't do anything against the American authorities, so if he was a fighter, do you think that under these pressures any human being will keep quiet? I don't think so.



Observation 2: His actions prove to anyone in the world that he wasn't a fighter and I am going to tell you two stories: The first, one time he was walking and he saw in that walking area a piece of metal shaped like a knife, with a length of 20 cm and he gave it right away to the soldiers and all the people in charge saw that-the junior officer, the senior officer and the captain-immediately after that, one of the soldiers, instead of thanking him for this act which saved the lives of many soldiers, he instead threatened to kill him and said I will cut your head off and cut you to pieces, and after that immediately, the senior people in charge and the doctors took that soldier from that area and wrote a report detailing what happened. I am telling you if he was an enemy combatant, would you think he would give the soldier a weapon like this that he found, so I am begging you to judge him fairly, and if you want to be sure, I am asking you after we are done to go to his behavior file, and after this incident I would like the tribunal members to look into matters with precision and justice.

The other story is more dangerous than the first story, that he found a crack by the room window, it was very big and he immediately informed the authorities and the people in charge and this room still exists now and you can check out the place the he informed the authorities about and this room is in [REDACTED] [REDACTED]. And one more time, I am asking you to look into things and words with a just eye.

Observation 3: Also my son in Syria was successful in his studies and he had only one year left to graduate, during his stay in Afghanistan, he always wanted to go back to Syria and he asked me for that to happen as soon as possible so he could finish his studies, but at the end, I told him just be patient until I save money, and then we will all go to Saudi Arabia. After that, these problems happened, and I hope this tribunal is the beginning of the end. And again, I hope that these words will have the desired effect on you and that it is sufficient and convincing.

Note: I am asking you for a copy of his official papers that he entered Afghanistan with, especially the date of his entry, if you would, for it to be a proof to this story.

The second accusation, in regard to me housing Arab fighters in my house:

The answer, in short, to this accusation is that I, before the arrival of my family, I didn't have a house, I myself did not own a house, so from this you would assume that I housed them after the arrival of my family.

You know very well from our official papers that the date of our arrest was the twelfth month and the date of my family's arrival was the sixth month, so finally it can be completely understood that the incident of 9/11 had not happened yet, and the war also had not happened, so it understandable there was no need for housing or lodging before the war because people needed housing after the war.

After the declaration of war, after we heard it, we left Kabul to Jalalabad and we left our house and we left to Jalalabad to save our lives and in this tough period that me and my family had been through in Afghanistan because of the troubles and the problems that were created by the war, a person needs a longer period of time to travel from one city to another, and this takes a long time and many days. From our departure to our arrival to Jalalabad and getting ourselves ready for the trip to Afghanistan, and our need to find somebody to take us to Pakistan and to help us on this difficult trip, this act took many days and after our separation from our family in the first village, and that was in the second day of Ramadan, and after that the rest of the trip was not continuous, me and my son, in these days, we went from one village to the other until we got to Pakistan, and our

situation at the time, if I were to describe it, I would say we were homeless and refugees, we ourselves needed somebody to house us in these days and in those villages. In this time, and through these problems, its clear to you that in the time of war when there were fighters, its obvious to you that me and my family were homeless, so how could we house other people.

Neither me nor any member of my family did ever house any Arab or non-Arab fighters. I didn't have anything to do with this war, and neither did any member of my family, directly or indirectly. And we didn't help any of the fighting factions or non-fighting factions and I didn't have any relation and I didn't see any Arab and I didn't know anyone of them and I didn't house any of them and I didn't house anyone, period. Me and my family were new strangers in Afghanistan, we didn't have any relation with people or any social relations and the beginning of the war took us by surprise and destroyed all our hopes and dreams of a better life and we were forced to leave our possessions from house furniture and work tools to save our lives and to escape death, knowing that the victims of wars are always the civilians, the innocents, the women and the children. And finally I swear (illegible line)

I also swear that I don't know anyone in Afghanistan except [REDACTED] and [REDACTED]. And also if my family is still alive, they will testify, their women and their men, that nobody in Afghanistan came to our house.

Observation: I would like to tell you that [REDACTED] and [REDACTED] never entered my house even though [REDACTED] is my associate and [REDACTED] helped us leave, so how is it possible that I housed fighters, so this is not true and this is a lie.

The fourth accusation regarding getting my family out:

In regards to this accusation, I am going to ask the following question and I am going to answer it. The question is, do you mean by this accusation that this is an accusation against America or it is an accusation against my family itself because of the great hardship they suffered because of the beginning of the declaration of the war in Afghanistan that I didn't cause in any way?

Answer: If this was an accusation against America, I am really wondering how getting my family out, which included women and children, all unarmed, and obviously the did not train militarily, especially the children, and there were eight of them, the oldest was fourteen and the youngest was still an infant, so how is it possible for these civilians to constitute a danger for the great America or any other country and how is it possible for me mom who is almost seventy years old, how is it possible for this old lady to present a danger to the great America and how is it possible for people with experience, like the American authorities, who are responsible for this issue in this place to make my family travel from Syria to Afghanistan among the accusations? This is a strange thing, the sound minds will wonder about. And I am asking you to accept what I am saying and you to see its logic.

But if getting my family out in itself is an accusation after the beginning of the war and after all this hardship and the suffering that my family has endured, I consider that I made a mistake towards them, because I didn't know what will happen, if I had known that this will happen, I assure you I would never have left Syria and I would have accepted my life there in spite of all the problems and hardships.

The fifth accusation and I am going to start by responding to it, and it is in regards to being a Syrian citizen.

I told you before that the situation in Syria wasn't good, and my desire was to find a better life for me and my family and this is a natural desire, which is in every human being and the instinctive urge in a human being pushes him to try to improve himself, knowing that not all attempts in this matter are successful, yes I left Syria with the desire for a better life, I went to Afghanistan in a trip that lasted many days, and it was a land trip and this trip was full of hopes and happy wishes and I left Syria in a legal way and I didn't commit any crime in Syria or any other country that will cause me to run away from my country Syria to any other country, I am not one of those who breaks the law, in a small or big manner.

My passport is with the American authorities, and it is an original passport issues by the Syrian authorities, and it has all the legal and necessary stamps that allowed me to leave Syria and to go through Turkey, Iran and then Afghanistan. If you would like me to give you details about this trip, I am ready to do that.... There was no bad intention in this trip towards any human being in the world; my only goal from this trip was to find a better life for my family and myself.

What is strange, and what makes you wonder, is the presentation of these accusations, and the need for me to defend myself against something that happened in a legal way and that that didn't cause any harm to any human being and that is not considered a crime in any place in the world, not in this time, nor in the dark ages. I tried hard to see the point of view that makes this trip an accusation, but I couldn't find this point of view.

I am asking you, as you are listening to my words, to agree with me that this is not an accusation, as it is for most of the other accusations against me, they are not accusations either.

Finally, I present my reply to the fact that I left with a Syrian citizenship. I am very thankful to the person who wrote this accusation for describing this point, for this shows that the American security authorities attest and confirm to you that I, the accused, have used the original travel documents from my country Syria, and I went through Turkey and Iran, then Afghanistan in an official way and there is nothing in it that is against the law.

This shows you that I am not wanted, or a terrorist, or from the people that are involved in terrorist acts, because these kinds of people always use forged documents and they commit unlawful acts. In the end, this shows you that I was truthful in this particular point and in the rest of the accusations in general. And as my documents showed the truth, so it will be clear to you the truthfulness of my words regarding all the accusations. The sixth accusation says that I was captured and that I had 100 Saudi Riyals and 3000 or 5000 thousand Pakistani Rupees.

When I left Syria I had money and when I was in Syria I had money and when I was in Afghanistan I had money and when I left it I had money and when I was kidnapped in Pakistan I had money, so is the presence of money with a person a crime, for if it is so, then all human beings are criminals and they are grouped with me in this crime because they have money.

I am not one of the rich, and my financial means are limited, but I used to work long hours selling food in Afghanistan to make money and this is a normal thing that must be done in human life and here I am not talking about millions of dollars, and if I had this

amount you would not find me here and I would not have left my country in the first place, and also I didn't even have hundreds of thousands, and if I did have then I would also have not left my country and I didn't even have thousands of dollars, but all I had was a small amount in my view and according to my work and according to Afghanistan, which I was living in. All that I had in Afghanistan was approximately four thousand dollars and that is the amount that I had accumulated after a lot of work and a lot of effort, the whole time I was living in Kabul and that is the amount that I supported myself with, and supported my family with when they came to me. Where is the wonder and where is the crime here in this matter and how could that be an accusation, that a man with the responsibility of a big family who has little money, how that could be a crime, I do not know. And it was stated in this accusation that the money I had when I was captured was 100 Riyals and 3000 or 5000 Pakistani Rupees, this figure is wrong, and the correct number is 1000 Riyals and 4000 thousand Rupees and this amount altogether amounts in dollars to approximately (\$335) and this is the below the minimum amount that two people need in similar difficult circumstances that we have been through, my son and I.

So I ask you, if I had stayed, my son and I, in these circumstances, without money, and had been saved, is it better, or if we had stayed without money and we died better. You have the answer. It is a fact, and among the things that two people cannot disagree on, that money is the only way to do things like buying stuff and transportation. And only a crazy person can deny this truth, for I have never heard of someone buying food with dirt, for example.

In regards to the existence of Saudi Riyals with me, or the Pakistani Rupees, before I left I exchanged all my money to Riyals because I was hoping that I will leave, my son and I, and that we will go to Saudi Arabia. In regard to the Rupees, in Afghanistan, people use Rupees and Afghani currency and others.

Note: Afghanistan, like any other country, has all other currencies and this is well known by everyone.

(Illegible line)

Now you are looking at a prisoner in this camp and without exaggeration, this prison, and the prisoners in it, are among the most famous prisoners in the world, and this issue took a very long time and it is one of the most famous issue. Be sure that all my life I've never been detained or imprisoned and I never stood before any tribunal, and this is among the reasons that made my departure easy. A Syrian citizen who wanted to travel must have a passport and visa to travel. This passport and this visa are not given to criminals, the wanted and the terrorists and the like. And my passport is in the custody of the American authorities, and you can verify that and this is clear testimony and evidence from the Syrian authorities to confirm to you that I am not a criminal or a terrorist or a fighter or wanted.

I will start by defending my son and myself against this accusation.

In regards to the accusation saying that the detainee escaped from prison, I would like to confirm to you that this is not true, and I will do that with proof and evidence.

First: When the villagers delivered us, and before they delivered us, they weren't carrying any weapons, and they didn't threaten us with any weapons, and we didn't present any resistance, and there were no problems between them and us.

Second: When we arrived to the prison, and in the Pakistani authority custody, and behind a lot of walls and bars, we were very heavily guarded, twenty four hours, by the Pakistani police, we always see a policeman, he never goes away, and we were behind bars and walls- I am asking a question and I will answer it:

What is easier, to escape from prison, full of police, weapons, walls and bars, or to escape from the villagers, who didn't carry weapons, and there were no bars or walls between them and us. I am sure, 1000 percent, that our escape from the village was easier. Our escape from the prison, and the armed police with different kinds of weapons, and we were behind walls and bars, is difficult and impossible, and this thing didn't happen at all, neither with other imprisoned people, nor by ourselves.

Knowing that me and my son, we didn't try to escape from the village, we didn't try to escape from the Pakistani police, we didn't try to escape from the Pakistani prison, that means we didn't try to escape, and we didn't escape from any place.

And also when we were transferred to Kandahar, we didn't try and we didn't escape and also when we came to Cuba, we didn't try and we didn't escape, and during the three years here, everybody knows that no resistance ever came from us against the soldiers, or that interrogators, or the prisoners and all the soldiers and the interrogators testify that this is true and that the resistance never happened, but the exact opposite, my son, when he saw in room [redacted] at Camp [redacted] the breaks in the window screen, he told the soldiers and the security forces immediately and we always try to prove our innocence and our truthfulness.

In regards to the accusation that said that detainees flipped over a car, I am saying in response to this false talk, that I have a lot of important things to say to defend myself and my son in regards to these false accusations that is against me and my son in this tribunal and I am going to divide my talk into three points.

First point: I am asking you officially to review the official reports and the newspapers in regards to this incident, there was a lot of talk about it internationally, and this is a known and documented incident in the newspapers and the media, and after you review it, its details, you will know the date this incident happened was in the fourth day in our Eid (holiday) and I don't have the means now to tell you the dates in the Roman calendar but you can find out easily from the press and the media the official reports.

I was with my son in custody in Pakistani prison when this incident happened, when the villagers delivered us to the Pakistani authorities, this was the first day of our Eid and it was in the afternoon and after that prison, the Pakistani authorities took us after putting us in shackles in another prison and we stayed there about five days and after that a lot of people came to the prison and then the authorities moved all of us to another prison and this prison was the third for me and my son. The Pakistani military said we were in Kuhat prison. And after that the authorities who was in the bus and we didn't know anything at that time about the bus or anything else related to this incident and after that the Pakistani authorities took us and told us you were in the bus. We told them the truth, which is we didn't know anything about what they were saying. After that they separated me from my son.

Second point: After they separated us, they started torturing us to say by force the sentence that we were in the bus and I was telling them I don't know anything about the bus and also my son said so. And whenever one of us refused to say that phrase they increased the torture until my son's nose was broken, and he caught many illnesses and I

caught many illnesses also, until we said that we were in the bus, and in truth we didn't know anything about it and after that they reunited us in the prison and after that they put us with the detainees and after that we learned from the Americans the bus story. Before delivering us to the American authorities for interrogation, the Pakistani authorities told us the Americans will take you for only two days and they will bring you back to us and if you change your story we are definitely going to kill you. After that the Americans took us, but when we arrived to Cuba we told the Americans immediately what had happened.

Third point: It is the location of the incident and the location of our detention, and I am asking you to go back and to make sure through maps of the Pakistan and Afghanistan borders from all sides and from the Jalalabad side, you will get a clear and honest view of the impossibility of us being there or participating in this problem, knowing that we didn't know which village we were captured in, but all what we know is that we were captured at the Afghan-Pakistani border on the Jalalabad side. After you will review the appropriate maps for both areas, the truth will be clear to you and you will see the lies in this accusation in particular and in all the rest of the accusations in general.

If you want me to swear to this I am ready and my son is also.

The eighth accusation in regards to getting on the plane in Afghanistan.

This accusation made me smile and laugh and I would like to say to you that is true, yes, I admit that I and my family got aboard a civilian plane, not a Taliban plane. And I would like to inform you truthfully that this is the second time in my life and in all my family's life and especially the child who is eight months old, I am going to tell you the reasons for which we got into that civilian plane, but first I would like to tell you before mentioning the reasons why I laughed and smiled at this accusation, I am assuring you that by me smiling at this accusation, I am not ridiculing you or this court, but my smiles and laughs were because of the feelings that this trip created and my eagerness to take a plane with my family for the first time and I am imagining now the faces of the members of my family during that trip, some were happy, some were sick and vomited a little, but the kids enjoyed the trip the most.

In regards to the trip itself, it was from Herat to Kabul and the distance was very long, it was approximately one thousand (1000) km. The reasons are, you know very well that the roads in Afghanistan are very bad and also there are highway robbers and also traveling by plane is more comfortable and quicker than traveling by car, especially for me and my family which contained children and women and if we had traveled by land, they would have suffered great hardship, especially since before their arrival to Afghanistan, they had been through a long trip from Syria to Iran and also among the important reasons for me is that traveling by plane is cheaper than by car.

These are the reasons that pushed me to travel by plane with my family from this city Herat to Kabul. Our only intention to move from one city to another and also to settle in Kabul, and of course this trip is not part of some conspiracy against the United States, knowing that we made this trip before the beginning of the war and before the 9/11 incident.

I assure you that this plane was a civilian one and there was nothing to make us suspect or think otherwise. The color of the plane was white with blue writing on it and the writing was Ariana Afghan, and as we understood, this was the Afghani Airlines  
(Illegible line)

I would like to start my defense by asking my audience on this board to look at their watches if they would and I am not going to ask whoever owns a Casio watch to identify themselves fearing that he would be accused of this accusation, but I will be satisfied knowing how many of you own this Casio watch.

I am assuring you that Casio company is well known international in the East and the West and I am assuring you all the watches in the world and all the companies make the same watch, and no two people could argue about this, that all the watches are made to tell the time, and this is the only thing I know and nothing else, and I am assuring you that me buying this watch was with good intention and just to tell the time and nothing else, and I didn't have any other reason, and if I knew that one day this watch will be against me, I wouldn't have bought it in the first place and I would have bought another brand except for this one, and had I known that my trip without my watch would have lessened my problems, I wouldn't have worn one in the first place, I would just ask people around me about the time. I want to add that a lot of people around the world today own this watch, in Syria, in America, in Saudi Arabia, and all the countries of the world, and I have seen lots of American soldiers wearing this watch and this is testimony from all over the world about the quality of this watch and its capabilities and these are the reasons that caused me to buy it and it is also cheap and it works well for many years, and you can examine it and when you do that, you will conclude that what I am saying is true and you will know that I only bought it for the reasons I mentioned to you. In the end, if this stays as an accusation against me, then the whole world is my accomplice in this crime because all of them own this watch, so I am requesting you to look into this matter if you would.

Accusation eleven and twelve in which you say first that an old associate said that I am part of terrorist parties and second is your saying that I have been identified as part of terrorist parties also.

As I told you, I tried to immigrate from Syria to Saudi Arabia then I went back to Syria then I traveled to AF and these two trips were both in 1999 and I was at that time forty (40) years old and this is not a young age and I have a lot of responsibilities and I had a house, a wife and three children, and I am the only breadwinner for myself and for them. My age is not the age of a young man who is free of family attachments who would like to look for exciting projects or something like that. My trip to Afghanistan was the first and only time that I set foot on the land of Afghanistan. I didn't have any prior relation to Afghanistan and I didn't even know anything about it before I heard about it on television, and I didn't have any relation with any individual who had a relation with Afghanistan. When I came to it, my only goal was to work and save money, and nothing else.

I would like to add to this that in my country Syria, that if any individual is known to have tendencies or relations or any contact with any party or group, he would be subject to harsh punishments, that could be imprisonment for life, and I am repeating again that in my short life in Afghanistan I didn't have any contact or relations with any group or any party. I was living there as a foreign citizen who is making a living for himself and his family.

In regards to the one accusation that says there is an old associate who talked about me and said that I am part of a terrorist party, this talk is not true at all, and it appears to me that he made a mistake, and I am asking you to put me in front of this associate for the second time for him to take a good look at me and to look at my height and my form and

I hope that after that the truth will come out after the scrutiny and after he looked at me, for I am sure that this is a mistake, and there is a witness who is my son, that I am not a part or member of any group or terrorist party or non terrorist for that matter and the both of us that this is not true and that I am innocent of this accusation and from others and if you believe this accusation, and the other accusations, you will doing me a great injustice.

(Line illegible)

I am wondering one more time, in regards to me leaving Jalalabad in spite of the hard conditions; could this clear me or is this point going to make me a criminal. If this point clears me then I am happy for that and I am thankful to the writer of this accusation, and if this point makes me a criminal then I would like to discuss this with you.

It was said that I am part of a terrorist party. The terrorist as you know, and as the 9/11 incidents proved to you, don't care about death, on the contrary, they yearn for it. As for me, I fled hoping to save myself and my family from death and when we fled, we left all our possessions in Afghanistan, and we had only our civilian clothes that we were wearing when we left, and our official papers and a little bit of money. We fled from war and death to save ourselves and the modern history with all its wars shows you and also the media shows you how the civilians are always the victims of these wars, for they are the ones who die the most in wars and they are the ones who's women are displaced and they are also the ones who's women are raped and also at the same time you hear the cries of their children and I would like you to imagine for a moment the scene of me, my son and my old mother and the rest of my family in that terrible time and those harsh moments, how the look of each of us was. We didn't have a home to house us; we didn't have anybody to help us despite what I told you in the first accusation. People abandoned us and we were looked at as merchandise that could be bought and sold. I am asking you, is this picture in your judgment the picture of terrorists or is it the picture of refugees fleeing, in fear for their lives.

The third accusation is that I am a Mujahid member of (illegible)

To tell you the truth, that me and my son, we left talking about this accusation at the end and the reason for that is that really, we didn't know, neither me nor my son, how to defend ourselves against this accusation.

What happened to my son and me is not a fictitious story or a one of Hollywood's movies. It is the bitter truth that we lived through, my son and I. And you see me now in front of you in my orange clothes and the shackles in my hand and I cant drink from a cup if I wanted and I cant go to the bathroom and I cant even turn these easy pages that I am trying to defend myself and my son with. I have nothing, I was robbed and everything was taken from me and I am asked after all this to prove my innocence. The person that gave you these accusations to address to me, he was sitting on a chair, drinking some hot coffee and he had everything he needed to make his job easy, and it took him and it took other interrogators three years to prepare and present these accusations and perhaps he was talking to himself and to the others, should we put this accusation or not, maybe they said, there is no harm, we have plenty of paper and ink is cheap and one more accusation will not hurt us and maybe it will accomplish what we wanted to indict this person. I would like to ask how much of their time did it take to write these accusations and how long the work they did took and I don't know if they thought of words that are in my



point of view among the most beautiful words, like truth-justice-fairness-honesty-or if they didn't think of them.

I am telling you simply that I am not a Mujahid member and neither is my son, and I showed you before that my field of work is food and I showed you how I brought my family to Afghanistan to live a better life. Every human likes to improve his work and live with his family a happy life and I mentioned to you before that I don't know anybody in Afghanistan except [REDACTED] and [REDACTED]

I am saying one more time and I am asking how could a person like me be a Mujahid member against the United States and its allies even though I arrived in Afghanistan before the beginning of the war and before the incident of 9/11. I wish I had tangible evidence I could present to you to show the truth and I would have loved also if you could have seen me preparing my food and selling it and I would have loved if you had seen me saving money, little by little, to bring my family, and they came as you know before the beginning of the war. I wish that you had seen me working, like I said, so that you yourselves would clear me from this accusation and the rest of the accusations.


In the end, I don't have anything tangible to present to you except my son's testimony or my family's, if they are still alive. I swear to you that I am not from Al-Qaeda, or Taliban or any terrorist party or a Mujahid member.

At the end of this session before I finish my statements I would like to ask you if you have any questions regarding what I have said, I am ready to answer.

My thanks to everyone in this session, including the member, the translators and others, and I thank especially the personal representative, and thank you all for listening.

## Personal Representative Review of the Record of Proceedings

I acknowledge that on 06 December 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #307.


 I have no comments.

My comments are attached.

  
Name

LCDR, NC, USN

06 Dec 04  
Date

  
Signature

ISN #307  
Enclosure (5)