Summarized Unsworn Personal Representative Statement with absent Detainee

Personal Representative states Detainee declined to participate in Tribunal proceedings.

Personal Representative states the Detainee was advised of his right to be present during all open sessions of the hearing; advised of his right to make a statement; under oath or unsworn; advised of his right to representation by a Personal Representative; advised of his right to provide evidence and present witnesses on his behalf; and advised of his right to examine and review all unclassified evidence/documents. Personal Rep stated the Detainee indicated he did understand the Tribunal process.

The Personal Representative submits the Detainee Election form D-A.

The Recorder presented Exhibits R-2 and R-4 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.

President was convinced Detainee was aware of his rights and had an understanding of the Tribunal process. President announced Tribunal hearing would proceed without the presence of the Detainee.

Personal Representative made the following statement for the detainee.

Personal Representative: Exhibit D-J, the witness that was requested was a commander of a Taliban training camp. ISN 558 states that the detainee was never at that location and there for since the witness was at that location the fact he didn't know 558 was proof that he was never there.

Tribunal President: This is a statement from the witness that was requested witness number 707.

Personal Representative: Yes, the witness could not write, he could read but not write so the translator wrote what he said, he looked at it and the translator and I witnessed it.

Personal Representative: The detainee did allege torture in Afghanistan by two FBI agents and then that those men threatened him but did not torture him her. I forwarded that complaint through our legal channel as required.

Tribunal President: Was that complaint given to you during the initial interview?

Personal Representative: Yes, Ma'am.

Personal Representative: The Detainee wanted to bring your attention to the fact that "associated forces" are not defined in the definition of enemy combatant and he did not know how he could reasonably confront or rebut that if it was not defined. I would also like to draw your attention to fact that he claimed he had a POW Card that was issued to him by the United States. He had the card in his possession at Baghram Air Base for several months. The International Committee of the Red Cross witnessed it. As you are aware, Geneva Convention Category III has three categories for someone who is captured on the battlefield; civilian, combatant, or POW. Those categories are mutually exclusive. In D-f, I included the Geneva Convention. On page one, he was entitled to the status of POW. On page two, the categories with POW, the length of the status is in effect which is to when the conflict is terminated. There is the identity card requirement, which is on page five. Also on page five, it is not to be removed once the card is given. So, he would ask that you reconsider that. That can be construed as proof he is not an enemy combatant, because if he is a POW, that would exclude him from being an enemy combatant.

Tribunal President: We will make note of his request. This tribunal has determined that the designation of POW is not relevant to the combatant status determination.

The Personal Representative states for the record that the Detainee received two letters in the mail from his lawyer to not participate in the tribunal process. The Detainee made a statement to the guard that if there is a tribunal he is not attending.

The Personal Representative had nothing further on the behalf of the detainee for this unclassified session of the tribunal.

The Tribunal President concludes the open tribunal session.

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

Our ref: GP/jp

Your ref:

Birnberg Peirce & Partners

Solicitors

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Moazzam Begg
Guantanamo Bay
Cuba

14 August 2004

Dear Moazzam

I am writing to introduce you to Gita Gutierrez (of the law firm Gibbons, Del Deo, Dolan, Griffinger, & Vecchione) who has obtained clearance to visit you. The conditions under which she is allowed to visit you are far from ideal. Any documents that she takes to the visit, including this letter, are subject to scrutiny by the authorities at Guantanamo Bay. This process is of course objectionable, and Gita is complying with it because, using the best judgement we can, it is of urgent importance that you see an outside and independent person who has your interests at heart, when you have been allowed no such contact for the past two and a half years.

I write this letter to reassure you that Gita is part of a legal team in the United States, who is acting with the blessing and on the instructions of your family and of me on behalf of your family. I set out something of the history of instruction of lawyers and actions on your behalf of which you may be completely unaware.

Immediately after you were unlawfully seized in Pakistan, your family initiated legal action on your behalf in Pakistan. The judges in Pakistan, on an application for *habeas corpus* (meaning that you should be immediately released from unlawful custody and produced to the court) ordered that you be so produced. Each relevant Ministry in Pakistan submitted an affidavit that it was not responsible for holding you, and was unaware of your whereabouts. Thereafter your father was informed that you were in Bagram Airbase in Afghanistan. For the next year, acting on your family's instructions, and jointly with them, I pressed the Foreign Office to assist in your release from unlawful detention. The Foreign Office stated to your father and to me in writing and in person that they had had no consular or welfare access to you and could provide us with no information whatsoever. They stated that the US would provide them with no information. We asked for the active assistance of the British Government in challenging the legality of your detention in Afghanistan.

Partners
Gareth Peirce
~~Kenneth Graham~~
Nigel Leskin

Practice Manager
Richard Brown

Office Manager
Susan Upton

Solicitors
Rachael Dospicht
Daniel Quadalla
Alastair Lyon
Henry Miller
Irene Nembhard
Marcia Willis Stewart
Harriet Wistrich
Sarah Woodhouse
Hussein Zahir

Immigration Careworkers
Irfan Cangatin
Liz Farrell
Penny Gentles

Criminal Defence Service
Community Legal Service
Specialist Help Point

The firm is regulated by the Law Society in the conduct of investment business

Exhibit D-6

We then learned that you had been moved to Guantanamo Bay, and since that time we have instructed lawyers in America to bring all possible proceedings on your behalf that could challenge the legality of your detention, including a petition to the Inter-American Committee for Human Rights which made strong recommendations in respect of the detention without trial of detainees in Guantanamo.

I instructed the Centre for Constitutional Rights in New York on your behalf to commence a challenge in the US courts. (They had already initiated *habeas corpus* proceedings in the courts in America in early 2002 on behalf of two other British residents, Shafiq Rasul and Asif Iqbal, from Tipton in the West Midlands, who had been detained in Guantanamo Bay since early 2002.) Their case finally reached the Supreme Court in April of this year, and judgement was given on 28th June 2004, finding that the United States Government had been wrong to argue as it had in the lower courts, that Guantanamo Bay was not subject to the supervisory jurisdiction of the US courts. (I instructed the lawyers at the Centre for Constitutional Rights to join your own case in that action, but it was considered by them that as that case was considerably advanced at that stage, and due to be heard by the Supreme Court, it was preferable for findings to be made in relation to the applicants already before the Supreme Court so that further delay not be brought about, and because any findings in relation to any detainee would have a parallel effect upon others.)

It is thus that you have now come to meet Gita. She is an attorney in New York, and following the Supreme Court case, her firm agreed to act with the Centre for Constitutional Rights to achieve a resolution of your position. It is important for you to know that the Prime Minister, Tony Blair, has already stated publicly in this country that you will be returned here. The Attorney General, Lord Goldsmith, has also stated publicly that the proposed military tribunals do not constitute a fair procedure that the United Kingdom can acknowledge as adequate. Gita will undoubtedly discuss with you further our own view in relation to the tribunals and the process under which you are held. That view is strongly held; that it is a process that does not comply in any way with any minimum international norms of basic human rights and due process.

We hope that by now, the beginning of the end of your ordeal has been achieved. It has been a great privilege for the past two and a half years, although one that has been extremely distressing and frustrating, to have worked with your family who have been tireless in campaigning for your release. Thanks to their efforts, there is hardly a person in this country who does not know the name of Moazzam Begg, and the injustice that Guantanamo Bay represents.

I apologise for the brevity of this letter, and its inadequacy in discussion of the further legal actions that are contemplated. I would like to make you aware however, that it having been stated by President Bush that the British detainees could be transferred any time that the British government agreed to take them, and the British government having stated that it would take them, that in the absence of this happening promptly, we propose to seek a judicial review in the courts in this country, of the continuing failure of such a transfer if it has not taken place shortly. Mr Blair has stated it is perfectly appropriate to make sure there are 'structures' in place in this country in order to satisfy the United States that there would be no risk if you were transferred. It is extremely difficult to know what these 'structures' might be but this is a matter that will

have to be pressed here in the courts if there is continuing failure to achieve your transfer and/or to achieve your release from unlawful custody. Our view, strongly held, is that in no circumstances is the unjust and unlawful 'process' ongoing in Guantanamo an appropriate one to engage in. That view, as I have indicated, is accepted by the senior legal advisor to the British Government, the Attorney General.

Lastly, I wish to emphasise that the whole process under which you were unlawfully kidnapped in Pakistan, as the Pakistan courts effectively acknowledged, i.e. subject to no lawful process of arrest, detention, deportation or extradition, contaminates in law the whole process that has followed thereafter, even had that process been, as it so clearly has not, a process that accorded with international minimum obligations. We have absolutely no doubt, having interviewed in detail some of those who have returned to the United Kingdom from Guantanamo Bay, and who were in US detention in Afghanistan, that you had been subjected to an unimaginable ordeal. Nothing in that process could possibly stand the scrutiny of a proper and independent court. In the absence of that, nothing lesser should be substituted nor agreed with.

I shall continue to act on your behalf and on behalf of your family, in every way that is possible until you are safely back here and with your family once again. Those actions are taken in cooperation with colleagues in the United States and it is thus I introduce Gita to you and to confirm that it is with the knowledge and blessing of your family here. I enclose a copy of a letter from Sally and a letter from your father confirming that instruction which has in fact been ongoing for the past year and a half. Those letters are included with this in order that you be reassured that Gita is introduced to you through ourselves. Lastly, I enclose a copy of a letter sent by the Foreign Office to your father on the 11th August.

We hope that your days in Guantanamo Bay are numbered, and are fast drawing to an end. We have considered it important that Gita, the first lawyer of the team to obtain clearance, comes to see you at the earliest opportunity. (A further application to see you by another lawyer, who is accredited as a lawyer in the US but is British by birth, Clive Stafford Smith, is also at the present time, under consideration. He too works with the Centre for Constitutional Rights and with us. Like Gita, he has met your father.) Whilst there may be restrictions upon what Gita is able to say as a result of the wholly wrong, in our view, conditions under which she is obliged to see you, we hope nevertheless that you will find the meeting of benefit. I look forward to seeing you at the earliest possible opportunity.

With best wishes.

Yours sincerely,

Gareth Peirce

Gareth Peirce
Birnberg Peirce & Partners

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOAZZAM BEGG, Detainee, Camp Delta, Guantánamo Bay Naval Station Guantánamo Bay, Cuba;	
SALLY BEGG, as Next Friend of MOAZZAM United Kingdom;	
FEROZ ALI ABBASI, Detainee, Camp Delta, Guantánamo Bay Naval Station Guantánamo Bay, Cuba; and	CASE NUMBER 1:04CV01137
ZUMRATI ZAITUN JUMA, United Kingdom;	JUDGE: John D. Bates DECK TYPE: Habeas Corpus/2255 DATE STAMP: 07/02/2004
Petitioners,	PETITION FOR WRIT OF HABEAS CORPUS
v.	No.
GEORGE W. BUSH, President of the United States The White House 1600 Pennsylvania Ave., N.W. Washington, D.C. 20500;	
DONALD RUMSFELD, Secretary, United States Department of Defense 1000 Defense Pentagon Washington, D.C. 20301-1000;	
ARMY BRIG. GEN. JAY HOOD, Commander, Joint Task Force - GTMO Guantánamo Bay Naval Station Guantánamo Bay, Cuba; and	
ARMY COL. NELSON J. CANNON,	

Exhibit D-C

Commander, Camp Delta,)
Guantánamo Bay Naval Station)
Guantánamo Bay, Cuba)
)
Respondents.)
All sued in their official capacities.)

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Moazzam Begg and Feroz Ali Abbasi seek a Writ of Habeas Corpus. They act on their own behalf and through their Next Friends, Ms. Sally Begg, the wife of Moazzam Begg, and Zumrati Zaitun Juma, the mother of Feroz Ali Abbasi.
2. Petitioner Moazzam Begg ("detained Petitioner") is a citizen of the United Kingdom. Petitioner Sally Begg is a citizen of the United Kingdom. Petitioner Moazzam Begg is being held virtually *incommunicado* in Respondents' unlawful custody.
3. Petitioner Feroz Ali Abbasi ("detained Petitioner") is also a citizen of the United Kingdom. Zumrati Zaitun Juma resides in the United Kingdom. Petitioner Feroz Ali Abbasi is being held virtually *incommunicado* in Respondents' unlawful custody.
4. Pursuant to either the President's authority as Commander in Chief and under the laws and usages of war or the November 13, 2001 Military Order, *see* ¶ 38-40 *infra*. Respondents George W. Bush, President of the United States, Donald H. Rumsfeld, U.S. Secretary of Defense, Army Brigadier General Jay Hood, Commander of Joint Task Force-GTMO, and Army Colonel Nelson J. Cannon, Commander, Camp Delta, Guantánamo Bay Naval Station, Cuba are either ultimately responsible for or have been charged with the responsibility of maintaining the custody and control of the detained Petitioner at Guantánamo.

JURISDICTION

5. Petitioners bring this action under 28 U.S.C. §§2241 and 2242, and invoke this Court's jurisdiction under 28 U.S.C. §§1331, 1651, 2201, and 2202; 5 U.S.C. §702; the Fifth, Sixth, and Eighth Amendments to the United States Constitution; the International Covenant on Civil and Political Rights; the American Declaration on the Rights and Duties of Man; and

customary international law. Because they seek declaratory relief, Petitioners also rely on Federal Rule of Civil Procedure 57.

6. This Court is empowered under 28 U.S.C. §2241 to grant the Writ of Habeas Corpus, and to entertain the Petition filed by Sally Begg and Zumrati Zaitun Juma as Next Friends under 28 U.S.C. §2242. This Court is further empowered to declare the rights and other legal relations of the parties herein by 28 U.S.C. §2201, and to effectuate and enforce declaratory relief by all necessary and proper means by 28 U.S.C. §2202, as this case involves an actual controversy within the Court's jurisdiction.

II
PARTIES

7. Petitioner Moazzam Begg is a citizen of the United Kingdom who is presently incarcerated and held in Respondents' unlawful custody in Camp Delta, Guantánamo. *See* Exhibit A (Affidavit of Sally Begg).

8. Petitioner Sally Begg is Moazzam's wife. She is a British citizen. Because her husband cannot secure access either to legal counsel or to the courts of the United States, Sally Begg acts as his Next Friend. *See* Exhibit A.

9. On her own and through counsel, Gareth Peirce, Sally Begg has repeatedly tried to contact her husband, to learn more about his condition and status, and to gain access to him. The British Authorities have either rebuffed or ignored the requests of Mrs. Begg and her counsel. *See id.*

10. Petitioner Feroz Ali Abbasi is a citizen of the United Kingdom who is presently incarcerated and held in Respondents' unlawful custody in Camp Delta, Guantánamo. *See* Exhibit C (Affidavit of Louise Christian).

11. Petitioner Zumrati Zaitun Juma is Feroz's mother. She resides in the United Kingdom. Because her son cannot secure access either to legal counsel or to the court of the United States, Zumrati Zaitun Juma acts as his Next Friend. *See* Exhibit C.

12. On her own and through counsel, Louise Christian, Zumrati Zaitun Juma has repeatedly tried to contact her son, to learn more about his condition and status, and to gain access to him. The United States authorities have either rebuffed or ignored the requests of Mrs. Juma and her counsel. *See id.*

13. Respondent George W. Bush is the President of the United States and Commander in Chief of the United States Military. It is pursuant to the November 13, 2001 Military Order promulgated by him or alternatively, under his authority as Commander in Chief and under the laws and usages of war, that Mr. Begg is being detained. Accordingly, Respondent Bush is ultimately responsible for Petitioner's unlawful detention.

14. Respondent Rumsfeld is the Secretary of the United States Department of Defense. Pursuant to either the November 13, 2001 Military Order or the President's authority as Commander in Chief and under the laws and usages of war, Respondent Rumsfeld has been charged with maintaining the custody and control of the detained Petitioner.

15. Respondent Hood is the Commander of Joint Task Force-GTMO, the task force running the detention operation at Guantánamo. He has supervisory responsibility for the detained Petitioner.

16. Respondent Cannon is the Commander of Camp Delta, the U.S. facility where the detained Petitioner is presently held. He is the immediate custodian responsible for Petitioner's detention.

III
STATEMENT OF FACTS

17. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind.

18. The detained Petitioners are not, nor has they ever been, "enemy combatants" who are "part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who were engaged in an armed conflict against the United States there." *See Hamdi v. Rumsfeld*, 542 U.S. __, slip op. at 8-9 (June 28, 2004).

19. Petitioners seek to enforce their right to a judicial determination of whether there is a factual basis for Respondent's determination that they are "enemy combatants."

20. In August of 2001, Petitioner Moazzam Begg, his wife Sally Begg, and their children moved to live in Kabul, Afghanistan with their life savings in order to establish a school. Once they arrived, they purchase a home and Mr. Begg began setting up the school. *See* Exhibit A. After

the events of September 11, 2001, Moazzam Begg and his family remained in Kabul because they lacked the means to leave immediately and hoped that the threats of military repercussions would not materialize. After the bombing of Kabul, Mr. Begg and his family sought financial assistance from family and friends to flee to Pakistan. *See id.*

21. By November 2001, Moazzam Begg and his family had re-established themselves in Islamabad, Pakistan and leased a new home. *See* Exhibit B.

22. During the night of January 31, 2002, Pakistani officials seized Moazzam Begg from his home in Islamabad, Pakistan. *See* Exhibit B. He was able to make one call to his father stating that he was seized by Pakistan officials and that United States officials were also present. *See id.* Both Moazzam Begg's family and his British counsel have repeatedly attempted since that time to intervene on his behalf and to acquire information about his detention. *See id.*

23. Shortly after his seizure, Pakistani lawyers filed a habeas petition on behalf of Moazzam Begg in Pakistani court. On March 1, 2002, the court ordered the Pakistan Interior Minister to produce Moazzam Begg before the court on March 7, 2002, but the Interior Minister refused to do so. On March 8, 2002, Moazzam Begg's lawyer, Mr. Abdur Rahman Saddiqui, submitted that the Pakistani Security Services ("ISI") and the United States Central Intelligence Agency ("CIA") had seized Moazzam Begg and that the ISI had interrogated him. Upon threat of sanctions, the court again ordered the Interior Minister to produce Moazzam Begg on March 14, 2002. Again, the Interior Minister did not do so. *See* Exhibit B.

24. On March 4, 2002, Moazzam Begg's father learned from an International Red Cross worker that Pakistani authorities had transferred custody of Moazzam Begg to United States authorities. According to the Red Cross worker, United States forces had taken Mr. Begg to Kandahar approximately 10 to 14 days earlier. *See* Exhibit B.

25. For some time, the United States held Moazzam Begg in detention at a United States military airbase in Baghram, Afghanistan. *See* Exhibit. Mr. Begg's family received a few messages from him through the International Red Cross. *See* Exhibit A. In one letter to his wife dated November 20, 2002, Moazzam Begg stated that he wished his family to consult the lawyer, Gareth Peirce, on his behalf. In a letter to his father written December 15, 2002, he also stated

that "I have not seen the sun, sky, moon etc. for nearly a year" and that "I am in this state of depression and I am beginning to lose the fight against depression and hopelessness." *See* Exhibit B.

26. Thereafter, at some point in 2003, Mr. Begg's family was informed that United States officials had transferred him to Guantánamo Bay on February 6, 2003. *See* Exhibit B. Mr. Begg has been held in U.S. custody at Guantánamo since that time.

27. In July 2003, Respondent Bush announced that he had designated Mr. Begg an "enemy combatant" subject to the Executive Military Order of November 13, 2001. Mr. Begg has yet to be charged, provided access to counsel, or granted any other legal process. Mr. Begg's U.K. counsel has been informed that Mr. Begg has been held in solitary confinement since his designation in July 2003. *See* Exhibit B.

28. Both Moazzam Begg's family and attorneys are concerned about his deteriorating physical and mental health. *See* Exhibits A - B.

29. At the time of his detention, Mr. Begg was not a member of either the Taliban government's armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. Begg was not in Afghanistan at the time of his detention, but was taken into custody in Pakistan, turned over to the custody of the U.S. Military there, then transferred to Afghanistan, and ultimately transported to Guantánamo.

30. The British Foreign Office has confirmed that Feroz Abbasi is being held in Guantánamo, subject to interrogation, and denied Consular access. *See* Exhibit C. The United States has not disclosed the circumstances of his seizure but Petitioner Juma believes that he was taken by United States Military Forces in Kandahar, Afghanistan sometime on or before January 11, 2002.

31. In July 2003, Respondent Bush announced that he had designated Mr. Abbasi an "enemy combatant" subject to the Executive Military Order of November 13, 2001. Mr. Abbasi has yet to be charged, provided access to counsel, or granted any other legal process.

32. At the time of his detention, Mr. Abbasi was not a member of either the Taliban government's armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to

American personnel or property prior to his capture.

The Joint Resolution

33. In the wake of the September 11, 2001 attacks, the United States, at the direction of Respondent Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized the President to use force against the "nations, organizations, or persons" that "planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons." Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001).

34. The detained Petitioners are not, and have never been, a member of Al Qaeda or any other terrorist group. Prior to their detention, they did not commit any violent act against any American person or espouse any violent act against any American person or property. Nor were they involved in the ensuing armed conflict. They had no involvement, direct or indirect, in either the terrorist attacks on the United States on September 11, 2001, or any act of international terrorism attributed by the United States to Al Qaeda or any other terrorist group. They are not properly subject to the detention order issued by the President. As they did not participate in the armed conflict at any point in time, they also are not properly subject to the Executive's authority as Commander in Chief or under the laws and usages of war.

35. The detained Petitioners have had no military or terrorist training. They at no time voluntarily joined any terrorist force.

36. The detained Petitioner Begg was not initially taken into custody by American forces. It is unclear how Petition Abbasi was seized. Both, however, were taken into custody against their will and handed over to the Americans. They did not engage in combat against American forces.

37. The detained Petitioners promptly identified themselves by their correct name and nationality to the United States. They requested that the United States provide them with access to their families and to legal counsel. The detained Petitioners were kept blindfolded against their will for lengthy periods while being taken involuntarily to Guantánamo.

The Detention Order

38. On November 13, 2001, Respondent Bush issued a Military Order authorizing indefinite detention without due process of law. The Order authorizes Respondent Rumsfeld to detain anyone Respondent Bush has "reason to believe":

> i. is or was a member of the organization known as al Qaida;
>
> ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
>
> iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Military Order of November 13, 2001. President Bush must make this determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope of the Joint Resolution of September 18, 2001.

39. The Military Order vests the President with complete discretion to identify the individuals that fall within its scope. It establishes no standards governing the use of his discretion. Once a person has been detained, the Order contains no provision for the person to be notified of the charges he may face. Instead, the Order authorizes detainees to be held without charges. It contains no provision for detainees to be notified of their rights under domestic and international law, and provides neither the right to counsel nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and no provision for appeal to an Article III or any other court. In fact, the Order expressly bars any form of judicial review. The Order authorizes indefinite and unreviewable detention, based on nothing more than the President's written determination that an individual is subject to its terms.

40. The Military Order authorizes the use of military commissions to try noncitizens accused of terrorism and other war crimes. It establishes no guarantee that charges will be promptly

brought, that these charges will be made know to the accused and his counsel, or that a speedy trial providing adequate legal process will be afforded to determine guilt on such charges or their legal validity under domestic or international law. It permits prolonged pre-commission detention in solitary confinement, risking such long-term psychological injury as that suffered by Mr. Begg and Mr. Abbasi.

41. The detained Petitioners are not properly subject to the Military Order.

42. However, the Military Order was promulgated in the United States and in this judicial district, the decision to detain and designate Petitioners were made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.

43. In the related case of *Rasul v. Bush*, 215 F. Supp. 2d 55 (D.D.C. 2002), Respondents contended that the petitioners in that case were being detained not pursuant to the President's Military Order but rather under the President's authority as Commander in Chief and under the laws and usages of war. However, Petitioners in this matter were not arrested or detained by the United States in the course of the armed conflict.

44. Moreover, Petitioner Begg was detained by Pakistani not United States authorities and was arrested by them not in Afghanistan, but while in his home in Pakistan, nowhere near a battlefield. Accordingly, Petitioner is not properly detained under the President's authority as Commander in Chief or under the laws and usages of war.

Guantánamo Bay Naval Station

45. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray, at the United States Naval Base, in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights. Detainees incarcerated at Guantánamo are entitled to test the legality of their detention in the federal courts. *Rasul v. Bush*, 542 U.S. ___, (June 28,

2004).

46. In or about February 6, 2003, the United States military transferred the detained Petitioner Begg to Guantánamo, where he has been held ever since, in the custody of Respondents Bush, Rumsfeld, Hood, and Cannon. In or about January 2002, the United States military transferred the detained Petitioner Abbasi to Guantánamo, where he has been held ever since, in the custody of Respondents Bush, Rumsfeld, Hood, and Cannon.

The Conditions of Detention at Guantánamo

47. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. On information and beliefs, they have been, or will be, interrogated repeatedly by agents of the United States Departments of Defense and Justice, though they have not been charged with an offense, nor notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, and have not been provided counsel or the means to contact counsel. They have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, Respondents have taken the position that Petitioners should not be told of these rights. As a result, the detained Petitioners are completely unable either to protect or to vindicate their rights under domestic and international law.

48. On information and belief, the detained Petitioners have been forced to provide involuntary statements to Respondents' agents at Guantánamo. The detained Petitioners have been held under conditions that violate their international and constitutional rights to dignity and freedom from cruel, unusual and degrading treatment or punishment. They have been housed throughout their detention in accommodations that fail to satisfy either domestic or internationally accepted standards for any person subject to detention. For example, upon information and belief, they were initially forced to use a bucket for a toilet, and were not provided with basic hygienic facilities. They have been refused meaningful access to their families. They have not been provided with the opportunity fully to exercise their religious beliefs and they have been

humiliated in the exercise of their religion. They have been exposed to the indignity and humiliation of the cameras of the national and international press, brought to Guantánamo with the express consent and control of Respondents.

49. In published statements, Respondents Bush, Rumsfeld, and officers Lehnert and Carrico who preceded Hood and Cannon in their respective positions, have indicated that the United States may hold the detained Petitioners under these conditions indefinitely. *See, e.g.,* Roland Watson, THE TIMES (LONDON), Jan. 18, 2002 ("Donald Rumsfeld, the U.S. Defence Secretary, suggested last night that al-Qaeda prisoners could be held indefinitely at the base. He said that the detention of some would be open-ended as the United States tried to build a case against them.").[1]

50. Indeed, according to the Department of Defense, detainees who are adjudged innocent of all charges by a military commission may nevertheless be kept in detention at Guantánamo indefinitely. *See* Department of Defense Press Background Briefing of July 3, 2003, available at http://www.defenselink.mil/transcripts/2003/tr20030703-0323.html (last visited on July 1, 2004).

IV
CAUSES OF ACTION

FIRST CLAIM FOR RELIEF
(UNLAWFUL DETENTION)

51. Petitioners incorporate paragraphs 1 - 50 by reference.

52. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind. Petitioners are not, nor have they ever been, "enemy combatants" who were "part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who were engaged in an armed conflict against the United States there." *See Hamdi v. Rumsfeld*, 542 U.S. __, slip op. at 8-9 (June 28, 2004). The Petitioners

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[1] *See also* TIME MAG., *Welcome to Camp X-Ray*, Feb. 3, 2002:

> More curious still is the matter of the prisoners' ultimate fate. Rumsfeld has laid out four options: a military trial, a trial in U.S. criminal courts, return to their home countries for prosecution, or continued detention 'while additional intelligence is gathered.' The last seems a distinct possibility; the Pentagon plans to build 2,000 cells at Camp X-Ray.

have committed no violation of domestic, foreign, or international law. There is no basis whatsoever in law for Petitioners' detention.

SECOND CLAIM FOR RELIEF
(DUE PROCESS - FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION)

53. Petitioners incorporate paragraphs 1 - 52 by reference.

54. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of individuals, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the President's direction. On its face, the Executive Order violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – FIFTH AMENDMENT
TO THE UNITED STATES CONSTITUTION)

55. Petitioners incorporate paragraphs 1 - 54 by reference.

56. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Executive Order, as applied to Petitioners, violates the Fifth Amendment.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

57. Petitioners incorporate paragraphs 1 - 56 by reference.

58. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of Petitioners, without legal process, in violation of binding obligations of

the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the Executive Order violates international law.

FIFTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

59. Petitioners incorporate paragraphs 1 - 58 by reference.

60. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. The Executive Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

SIXTH CLAIM FOR RELIEF
(DUE PROCESS – FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

61. Petitioners incorporate paragraphs 1 - 60 by reference.

62. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

SEVENTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

63. Petitioners incorporate paragraphs 1 - 62 by reference.

64. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the detained Petitioners

without Congressional authorization.

EIGHTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

65. Petitioners incorporate paragraphs 1 - 64 by reference.

66. To the extent the Executive Order of November 13, 2001, disallows any challenge to the legality of the Petitioners' detention by way of habeas corpus, the Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution. The actions of the Respondents in claiming the legal right to detain petitioners without judicial authorization or review constitute a suspension of the writ of habeas corpus in violation of Article I of the United States Constitution.

NINTH CLAIM FOR RELIEF
(ARBITRARY AND UNLAWFUL DETENTION – VIOLATION OF THE APA)

67. Petitioners incorporate paragraphs 1 - 66 by reference.

68. By detaining Petitioners for the duration and in the manner described herein, Respondents have arbitrarily, unlawfully, and unconstitutionally detained the Petitioners, in violation of the Administrative Procedures Act, 5 U.S.C. §706(2).

TENTH CLAIM FOR RELIEF
(UNLAWFUL TRIAL BY MILITARY COMMISSION - VIOLATION OF THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION)

69. Petitioners incorporate paragraphs 1 - 68 by reference.

70. Pursuant to the Executive Order of November 13, 2001, Petitioners have been designated by Respondent Bush as "enemy combatants" subject to a possible trial by military commission.

71. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered that individuals designated as "enemy combatants" may be tried by military commission, without Due Process of Law. Respondents Rumsfeld is likewise acting in violation of the Fifth Amendment, since he acts at the President's direction. On its face and as

applied to Petitioners, trial by military commission pursuant to the Executive Order violates the Fifth Amendment.

TENTH CLAIM FOR RELIEF
(UNLAWFUL TRIAL BY MILITARY COMMISSION - VIOLATION OF INTERNATIONAL LAW)

72. Petitioners incorporate paragraphs 1- 71 by reference.

73. The trial by military commission for which Respondents have, by designating Petitioners, indicated that he may be eligible, violates the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the United States Constitution, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

74. As Lord Goldsmith, the British Attorney General, said a week ago,

> There will always be measures which are not open to governments. Certain rights - for example the right to life, *the prohibition on torture*, on slavery - are simply non-negotiable.
>
> There are others such as the presumption of innocence or *the right to a fair trial by an independent and impartial tribunal established by law*, where we cannot compromise on long-standing principles of justice and liberty, even if we may recognise that there may sometimes be a need to guarantee these principles in new or different ways.

See Lord Goldsmith, *Terrorism and Justice: The British Perspective from the Attorney General*, Speech at the Cour de Cassation (June 25, 2004), *available at* http://news.bbc.co.uk/2/hi/uk_news/ politics/3839153.stm. The manner in which Petitioner has been treated in Guantánamo Bay, and the "tribunal" that has been organized to try him – described by another respected British jurist, Lord Steyn, as a court that is a "mockery of justice" and that "derives from the jumps of the kangaroo" – cannot pass muster under the most basic and fundamental description of due process.

V
PRAYER FOR RELIEF

WHEREFORE, petitioners pray for relief as follows:

1. Grant Petitioner Sally Begg Next Friend status, as Next Friend of Moazzam Begg;
2. Grant Petitioner Zumrati Zaitun Juma Next Friend status, as Next Friend of Feroz Ali Abbasi
3. Order the detained Petitioners released from Respondents' unlawful custody;
4. Order Respondents immediately to allow counsel to meet and confer with the detained Petitioner, in private and unmonitored attorney-client conversations;
5. Order Respondents to cease all interrogations of the detained Petitioners, direct or indirect, while this litigation is pending;
6. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Administrative Procedures Act, 5 U.S.C. § 702;
8. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
9. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
10. Order and declare that the provision of the Executive Order that bars the detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution;
11. Order and declare that the prolonged, indefinite, and restrictive detention of Petitioners is arbitrary and unlawful, a deprivation of liberty without due process in violation of the Fifth Amendment to the United States Constitution, and in violation of the law of nations and treaties of the United States;
12. Order and declare that the detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
13. Order and declare that the detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;

14. Order and declare that the detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
15. Order and declare that the provisions of the Executive Order that authorize trial by military commission violate the Fifth Amendment of the United States Constitution.
16. Order and declare that the provisions of the Executive Order that authorize trial by military commission violate the various provisions of the regulations of the United States Military, the Uniform Code of Military Justice, the Geneva Conventions, and international law;
17. To the extent Respondents contest any material factual allegations in this Petition, require respondents to show the facts upon which Petitioners' detentions are based, grant Petitioners an opportunity for meaningful discovery into the case against them, and schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
18. Grant such other legal or equitable relief as may be appropriate to protect Petitioners' rights under the United States Constitution, federal statutory law, and international law.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 21 day of July 2004.

Timothy S. Susanin

Respectfully submitted,

Counsel for Petitioners:

* Timothy S. Susanin
U.S. District Court for the
District of Columbia Bar No. 455429
Lawerence S. Lustberg
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Counsel for Petitioners

* Mr. Susanin appears as local counsel for all attorneys.

Dated: Newark, New Jersey
July 2, 2004

GCAN20041 02646

U. S. Department of Justice

Civil Division

Deputy Assistant Attorney General

Washington, D.C. 20530

August 31, 2004

Delivery by Hand

The Honorable Joyce Hens Green
Senior United States District Judge
United States Courthouse
333 Constitution Ave., NW, Room 2315
Washington, DC 20001

Re: Guantanamo Bay Detainee Cases

Dear Judge Green:

Pursuant to your request at last Friday's conference in these cases, this letter memorializes the schedule proposed by the government for the submission of factual returns containing the factual bases for the detention of petitioner-detainees. As we discussed on Friday, the submission of such factual returns will follow the assembly and finalization of an administrative record for each detainee in the on-going Combatant Status Review Tribunal ("CSRT") process being conducted by the military.[1] Where the CSRT process results in a conclusion that the detainee is properly held as an enemy combatant, that process will supply the complete factual record justifying that conclusion.

[Each of the petitioner-detainees has begun the CSRT process in some fashion, with some more advanced in the process than others.] In estimating a period for overall completion of the CSRT process for the petitioner-detainees in these cases, however, several caveats are in order. The process is in its early stages, and its timely completion depends not only on unforeseen contingencies and operations at Guantanamo Bay, but also could be affected by idiosyncratic aspects of the CSRT proceedings of individual detainees. With these appropriate caveats, as well as those mentioned at the conferences in these cases, the government anticipates completing CSRT

APPROVED BY
US FORCES

[1] Pursuant to your request, I am enclosing a copy of the July 29, 2004 Department of Defense directive implementing and describing the CSRT process.

SEP 14 2004

JTF/ JDOG S-2
GUANTANAMO BAY, CUBA

Exhibit D-d

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proceedings for the majority of the current habeas petitioner-detainees[2] by end of September and for all of the current habeas petitioner-detainees by mid-October. Accordingly, the government intends to begin submitting administrative records finalized in the CSRT process, which will indicate the factual bases for the detention of petitioner-detainees to whom the records pertain, in the next two weeks. Such records will be submitted on a rolling basis, as CSRT proceedings for petitioner-detainees are completed. We anticipate filing the last of the factual returns by the week of October 18, 2004.[3]

This process will advance the parties' and the Court's interest in securing the most efficient and timely resolution of these cases. It accommodates the interests of counsel for petitioner-detainees in receiving in the coming weeks a complete statement of the factual basis for a detainee's status as an enemy combatant. And it does so without multiplying proceedings in these cases by requiring a partial explanation of the basis for detention that would doubtless have to be supplemented, and without diverting resources from the CSRT process in order to provide a partial factual return, a diversion that would necessarily slow down the ultimate completion of the CSRT process.

This schedule, of course, assumes coordinated treatment of these cases. To the extent one or more of the pending cases takes a different track requiring a reordering of particular detainees within the CSRT queue or the interruption of CSRT proceedings in order to facilitate a partial explanation of the factual basis for detention, the process inevitably will be disrupted and the proposed schedule may be impacted adversely.

Respectfully submitted,

Thomas R. Lee
Deputy Assistant Attorney General

On Behalf of Respondents

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[2] As discussed at the August 27 conference, the government has been unable to confirm that it is detaining two of the petitioners in these cases. Counsel for these petitioners have been notified and asked to investigate the matter further or supply additional information regarding the petitioners.

[3] To the extent that records submitted encompass both unclassified and classified documents, the government will file unclassified portions in the case to which the record pertains. Classified portions will be prepared for filing but will not actually be filed pending the entry of an appropriate protective order governing the use and maintenance of classified materials and, further, will not be shared with opposing counsel in a case until that counsel obtains an appropriate security clearance.

Enclosure

cc: Counsel for petitioners in: (by electronic mail)

Rasul v. Bush, No. 02-CV-0299;
Al Odah v. United States, No. 02-CV-0828;
Habib v. Bush, No. 02-CV-1130;
Kurnaz v. Bush, No. 04-CV-1135;
O.K. v. Bush, No. 04-CV-1136;
Begg v. Bush, No. 04-CV-1137;
Benchellali v. Bush, No. 04-CV-1142;
El-Banna v. Bush, No. 04-CV-1144;
Gherebi v. Bush, No. 04-CV-1164;
Boumediene v. Bush, No. 04-CV-1166;
Anam v. Bush, No. 04-CV-1194;
Almurbati v. Bush, 04-CV-1227;
Abdah v. Bush, No. 04-CV-1254

RESPONSE TO TRIBUNAL PROCESS

My decision to participate in the Combatant Status Review Tribunals is based on necessity, and stems from the desire to challenge my detention - both past and present - at the hands of the U.S. Military. This is by no means an acquiescence of the process, which I believe is intrinsically inequitable due to the following:

1. I have been informed by U.S. officials that the Tribunal is supposed to be a battlefield determination, conducted normally within weeks of initial custody. It is three years late! And there is no battlefield!
2. I was not captured on a battlefield nor in a combat zone, nor in any such contiguous proximity. Rather, I was abducted from my residence - where I lived with my wife and young children - in Pakistan (Islamabad), at gunpoint, by U.S. and Pakistani 'agents'; held captive at an unknown location for three weeks; and handed over to the U.S. military at an airport on 2nd February 2002. Thereafter I was taken to Kandahar; and later to Bagram. (See letter of Gareth Peirce; Affidavits of Gareth Peirce and Sally Begg)
3. In a letter dated 11th August 2004, my U.K. Solicitor, Gareth Peirce states "... in the circumstances, is the unjust and unlawful process ongoing in Guantanamo an appropriate one to engage in. That view ... is accepted by the Senior legal advisor to the British Government, the Attorney General. Also, the Attorney General, Lord Goldsmith, has also stated publicly that the proposed Military Tribunals do not constitute a fair procedure that the U.K. can acknowledge as adequate." (See Habeas Petition p.15)

EXHIBIT D-E

(ii) Another leading British jurist describes the proposed military tribunals as "... a mockery of justice..." that "... derives from the jumps of the kangaroo..." (See ibid)

(iii) According to Webster's dictionary (and law schools around the world) a tribunal is a law court; ... seat of judgement." Whether, or not, there is some confusion in terminology between "commissions" and "tribunals", it is clear that neither is bound by the principles of a congruent legal system.

(iv) The tribunals are being held under the authority of the U.S. military, and by extension, in the name of the "coalition" (see CSRT notice to detainees). The U.K. is by far the most prominent in that very coalition, yet it has requested either 1 "receive a fair trial" or that 1 be "returned to the U.K." Neither of the above 'processes' conform to that request.

4. It is claimed that the tribunal does not seek to "punish", but, an unfavourable decision will result in continued detention, reinforcing the government's position in denying legal rights. In fact, though the CSRT notice states that the tribunal is a "separate" matter to habeas petitions, the government has sought the court's deferral of judgement in all such cases (see letter U.S. DoJ - 31.8.04), and aims to directly impact the decision with findings from a "factual basis" for detention. Ergo, it will attempt to maintain the position that detainees are "enemy aliens" unentitled to legal succor. The two processes are thus inextricably fused.

(cont'd ... p2)

Page 2

(RESPONSE TO TRIBUNAL PROCESS)

5. The burden of proof is placed firmly on the detainee and thus I am denied access to ~~the~~ specific details pertaining to the factual basis of my detention. As it is my response to such ambiguous discovery must be based on intuition and perception of 'classified' or 'government information'.

6. The above "information" and exigious allegations are themselves taken directly from a statement - I believe on 13th February 2003 - that I was made to sign. In effect, by coercion, and under duress. It is self-evident that the 'unclassified' basis for detention is merely a summary of that statement. (See p.

7. Upon initial transfer to the U.S. military, and subsequent detention in Kandahar, on 21st February 2002, I was issued with a card for EPOWs (enemy prisoners of War), which noted my personal details, and the ISN number which I am allocated to this day: 558. Whilst I do not claim EPOW status, - nor that of "illegal" or enemy combatant - this is another emphatic display of the undulating and inscrutable process that I have experienced (Around six weeks later these cards that had been issued to hundreds of detainees - many prior to my arrival - were later confiscated by the military. (Mr. Patrick Hamilton of ICRC witnessed at that time, and I have requested his testimony, for confirmation)

8. The CSRT notice received on 13th July 2004 clearly states that detainees will be given a statement on the factual basis for detention. Have been given no such. They merely been summoned to hearings from the original. Whilst have had opportunities to persuade and address these bases it is rather evident demonstration of the absurdity contained in an inherent process

9. Despite having requested witness statements from several people - including from my father and wife - I have been informed that "no contact could be made"! And yet, my father lives in the U.K. and is in constant and regular contact with the British Foreign Office, who sent a delegate last week bringing mail from my wife and family. He was also aware via US authorities, that I had requested statements!

SAT access

10. Page 2, Enclosure (3) (D) states that I would be informed several 'days' before the actual commencement of the tribunal. I have received no such prior knowledge regarding a date and was informed abruptly at 0900 hrs, today (29th October 2004), that the tribunal would be proceeding at 1100 hrs! and whether I wished to attend!

11. According to Article (5) of the Geneva Convention and Army Regulations 190-198 and Administrative Procedures the tribunal is severely deficient in: (i) Requirements of standard of proof (ii) preponderance of evidence (iii) detainee status determined as "enemy combatant" prior to tribunal (iv) offers no appeal to decision (v) does not offer POW status (vi) denies right to chosen counsel attendance (vii) is closed to public scrutiny (viii) is subject to change at the government's whims (ix) lacks neutral decision makers (x) does not offer reasonable access to witnesses.

12. I have reason to believe that the government may include any information in this document in 'commission' proceed and yet am unable even to obtain copies for my own record.

TRAINING CAMPS IN AFGHANISTAN – A BACKGROUND.

There has been a deliberate and erroneous effort by various sections of investigative agencies to distort the reality of "training camps" in the Muslim world – particularly but inexclusively, in Afghanistan – as collectively either under the umbrella of al-Qaida, or closely "associated" by politico-religious objectives. This assumption is not only a gross misrepresentation of facts – whether by design, or by ignorance – but also, by definition, would absurdly seek the inclusion of tens of thousands of unrelated persons into the ranks of al-Qaida – a relatively miniscule organisation.

The said camps were established mainly on the Pak-Afghan border during the 1980s with the sole purpose to train resistance fighters – local, and foreign volunteers – against occupation forces of the former Soviets Union. As it is commonly known, these camps, and their organisers, received the full blessing of the USA – and allied nations – in the form of covert training by Special Operations units, and the supply of Stinger (SAM) missiles, et al.

By 1991 the Soviets had withdrawn their forces from Afghan soil, but left in power was the pro-Soviet government of Mr. Najibullah. The camps continued, firstly in support of various Afghan factions to overthrow the government – which occurred in 1992, and after. Were employed by the same factions in the internecine civil war that ensued.

Inspired by the momentous defeat of the Soviet armed forces, the camps attracted countless individuals from all over the Muslim world, that were themselves from countries or regions facing similar protracted occupation by foreign invasion or else under brutal repression by international "pariah" governments against sections of their own people. Many of the former have

also been designated "occupied territory" states under numerous U.N. Resolutions that call for withdrawal of the aggressor. Whether occupied, or struggling against a despot for independence, several of these camps were set up by and for peoples in close geographical proximity to Afghanistan, hence you have: Kashmiris (and their numerous groups) against Indian occupation. Chechens (or Icherians) against Russian occupation; Iraqi Kurds against Saddam's Iraqi Forces; Turkestani Uighurs against Chinese repression. Fighters also came from the Balkans – Bosnia & Herzegovina, and Kosovo to fight Serbian occupation.

The USA itself has been the foremost in criticizing and waging war against two of these regimes. To suggest then that these camps have the intention, aim and objective – as well as resources – to prepare against the USA in a terrorist-type war is the height of unintelligence – by the intelligence community – that inadvertantly diminishes and belittles the misery and desperation that has prompted a plethora of attendance to the camps in the first place. Implicating these camps; and all that attend, support and operate – or even play a peripheral role in that support –, is akin to holding all the U.S. militias (members, instructors, financiers, attendees – and leaflet distributors) to account for involvement with the Oklahoma bomber, Timothy McVeigh, because of the Michigan Militia that he trained with!

I don't know when al-Qaida formed as an organization, but I had never heard of UBL or it until after the U.S. Embassy bombings in Africa (1998), for which they were accused. From what I know, UBL was in Sudan until 1997 or so. Then left for Afghanistan, where he set up close to the Taliban capital Kandahar. His group required allegiance, physical presence and commitment and had the most lavish training camps in Afghanistan. Separate from all others.

2. RESPONSE TO "FACTUAL BASIS"

TRAINING (3) The camp that I visited in late 1993 was run by the Jamaat-e-Islami (Pakistan) - the third largest political party in that country. The camp was near the Pak-Afghan border in the north. It was responsible for training Kashmiri refugees in small arms and mountain tactics. The J.I. (Pak) also supported an Afghan faction of what later became the anti-Taliban Northern Alliance. Subsequently, the camp was closed down by the Taliban in late 1994.

My visit there lasted just over a week and did not include training, since minimum courses were for seven weeks - or more. My purpose was to observe and meet with other Pakistanis ~~or me~~ (being a British Pakistani myself) that had fought the Soviets and to learn about the Kashmiri dilemma. My absence from the U.K. did not exceed four weeks, which I can prove, if necessary, through family, employers, friends, etc.

But for argument's sake, if in 1993, I did receive training at this camp - I am at a loss to compute how that demonstrates membership of al-Qaida, or hostility towards the USA! Also, importantly it is common knowledge that al-Qaida tactics employed against U.S.A. primarily involved hi-jacking, bombings and suicide missions. The training here - and in such camps that I have heard of pertained to small arms and guerilla methods. That did not aspire ~~the~~ to al-Qaida's goals. In fact, I had not even heard the name Usama Bin Ladin, or Al Qaida until the late 90s! Any present or subsequent knowledge I have regarding them is in retrospect.

Further, it is alleged that I have "received ... training ... since 1993..." That means - if even sporadically - that I

for around ten years, have been continuously training (and yet have not put that training to use in all that time), suggesting that I am either the world's most incompetent trainee - or amongst the most highly trained! But the only other time I visited a training camp was in early 1998 for a period of two or three days. This camp was close to the Afghan city of Jalalabad - being one amongst several in that location.

At the time I was residing in Pakistan - Peshawar - for a few months and the journey was only two hours or so away. I went there to visit Jalalabad, swim in its lakes and view the camp. It was very small and poorly funded. It was training Kurdish locals from Northern Iraq in the use of crudely improvised incendiary grenades. (One of these trainees recounted how he had lost several family members during a chemical gas attack by Iraqi forces in the village of Halabja, in the 1980s). This camp in no way was part of al-Qaida; it's organisers were quite outspoken against al-Qaida, and Taliban - for their own reasons - and it was consequently shut down in mid-1999, and didn't reopen.

Another camp known as "Khalden" was also in operation at the time - though I did not visit, nor know of its location. I learnt something of it through some people I met in Pakistan in 1998. It was not part of al-Qaida at all - and was independent of any group or organisation. I believe both camps were unaffiliated to al-Qaida. Their raisons d'être were to help prepare against occupation forces and repressive

INDIVIDUAL (2) regimes - as mentioned. During late '98 - mid '99 I forwarded a few hundred British pounds for both camps. I have never had reason to believe that any of these small amounts

(Cont'd .. P2)

Page 3/11

a) were utilized in hostilities against the U.S.A.

RECRUITMENT

The process of recruitment is quite distinct in that it purports to expand membership via a certain procedure: requiring acceptance of rules leadership, goals and so forth. I believe this is true for al-Qaida, Taliban, the U.S. military or the Alabama State Militia! However, the two camps that I have mentioned - in Dorota, or Khaldun - did not have induction for recruits; membership of an organisation or group structure on offer. Most trainees would either return home - wiser for the experience; or, proceed, one way or another, to places like Chechnya, Kashmir or Kurdistan. Those who could afford to, would contribute some pecuniary donation in reciprocation.

In 1998 I was asked by an individual to provide him with a written reference for one of the camps. Later, he cancelled the request and did not collect it. Though I had intended to recommend others wishing to train at Khaldun, no one actually was. (One British friend did go to a completely different camp - in Kashmir, Pakistan - through a mutual friend in that country. This was with a Pak/Kashmiri group entirely unrelated to al-Qaida. In fact their own camps had been closed down by Taliban in 1994 - see p.2)

FUNDING

I had also contemplated sending more funds to the camps between 98-99, but (a) finances dictated otherwise (b) the meagre amounts I had sent were not being forwarded (c) both the camps had closed down by mid-99. (I have requested the witness statement of Ibn al-Sheikh (Libyan) whom I believe ran the Khaldun camp and was taken into U.S. custody around December 2001. I wish his confirmation of (a) whether I attended

Khalden? (b) Was Khalden part of al-Qaida - or any other group (c) Did he receive funds from me for the camp? (d) Did I recruit, or recommend anyone to attend the camp?)

(Coalition) Forces. There is a tendency to stereotype al-Qaida's truculence towards the U.S.A. being synonymous to previous combative engagements on the Muslim world. Whilst in U.S. custody in Bagram, I was held in cells entitled "Pentagon", "Somalia", "U.S.S. Cole", "World Trade Centre" and "Lebanon"! One cannot escape the argument that because al-Qaida have declared a holy war against the U.S.A., in turn the U.S. has regarded many Islamic peoples nations and organisations with antipathy.

This incredulous labelling has been used to include the anti-Taliban government of Iran, the former leadership of Iraq - and it's subsequent insurgents - and the Communist regime of North Korea, embracing a "ubiquitous" al-Qaida!

It is alleged that I am either a member of "Taliban", "al-Qaida or "associated forces". Both the former are easily disproved. And though the latter remains enigmatic, I will state that membership of any group, party, force etc, particularly in the Islamic diasphora, requires an ~~oth~~ oath of allegiance to the leader of a named group, directly, whether written, verbal or even tacit. For example, it is common knowledge in Pakistan that all such groups have structured systems which include actual card carrying membership.

I have never met or seen Usama bin Laden, nor offered my allegiance to any group - whether related to al-Qaida - or not; neither directly nor implicitly. I would like to be told exactly how and to whom I am putatively allied to by membership.

(2)
SUPPORT 4 My own family were evacuated from Afghanistan along with Kurdish and Chechen refugees into Pakistan where I eventually met up with them. In early and November 2001 five families stayed at my house in Islamabad with us for a couple of days. They were only women and children. Their menfolk later took them away to other locations. They were not part of al-Qaeda - their nationalities give some indication to that. Even for the sake of argument even if they were women and children of al-Qaeda members I cannot see by what stretch of the imagination accommodating women and children for a short spell can be regarded as hostile to the USA - or demonstrate a membership of al-Qaeda. It is stated that I provided shelter while al-Qaeda committed terrorist acts... I am unaware of any terrorist acts committed against the U.S.A. during that particular time period, and certainly not by relatives of the said families. Perhaps my accusators could enlighten me.

Page 5
(b)

VISIT TO AFGHANISTAN

In late July 2001 my family and I left the U.K. and arrived in the city of Kabul Afghanistan. By early August we had acquired our own residence. We had planned to stay for at least a year - a concept that I had discussed at length with family and friends in the U.K. where we had been initiating a project to fund and expand an elementary school programme for refugee children, as well as locals.

The plan was to expand both boys and girls schools to incorporate secondary education - and a link to the Kabul University. We collected books, funds and stationery; together with computers classroom furniture and playground apparatus.

I was very excited with the project after having received photographs of the school students; playgrounds; classrooms; school books; outings, etc. I also received copies of curricula, syllabi and reports from teachers and the headmaster. (I have requested copies as evidence - from U.K.).

Though the girls' school was not authorised by the strict Taliban regime, I still enrolled my own daughter at the school, and my son at the boys - though he was still too young.

With the intent to begin teaching myself - after gaining local language proficiency - I gave the children brief assembly addresses; took them on outings to the Kabul Zoo, Trade Fair, the game of 'Royal Buzkashi' (similar to Polo) and viewed several premises for expansion.

I had also helped initiate a project to build wells in the drought stricken regions of North West Afghanistan and by the time of my arrival over 20 had been built - many sponsored from the U.K. I had worked for an aid organisation operating in Bosnia & Herzegovina a mid-90s; my aim in Afghanistan was to continue in social value and assistance to these less fortunate

than myself. (I have requested witness statements to confirm – from U.K.)

FRONTLINE (1) Before leaving the U.K. I had conducted some research pertaining to the stability of the region: though a state of war existed between the parties and intermittent fighting occurred in regions bordering Tadjikstan, the cities and all surrounding areas had been quiet for over two years. An ambience of relative peace had begun – something absent for over twenty years: thousands were returning home; law and order (if somewhat austere) was prevalent in ninety percent of the country; reconstruction of buildings and roads was in earnest; foreign investment and the presence of international aid organisations of repute was prevalent. Peace negotiations between the factions were seemingly fertile, hence the frontline had been dormant for nearly two years.

My own naivety and geographical ignorance caused my surprise to learn the relatively close proximity of the frontline to Kabul City – around an hour's journey! But to gain reassurance of the inactivity first hand I decided to visit a section controlled by Pakistani fighters. The month was still August. I stayed for a few hours mostly at the rear – some twenty minutes away from the actual front, where I was permitted to stay and observe for an hour, or so. Besides the occasional sporadic shelling – which I heard was rare – the place was calm and silent. Here I was told that peace talks would produce an imminent end to the war and that Taliban were considering proposals for Northern Alliance surrender, and inclusion in regional government.

In early November I visited a town just North of Kabul and south of the front – maybe Chakdara – where I was when, after leaving Kabul, to gain news I learnt

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about the collapse of the Taliban government in Kabul.

EVACUATION

After the US attacks in October my family and I evacuated to a town South of Kabul; closer to the Pakistani border - where I planned to escape to if the news of war persisted. We had spent much money, effort and sacrifice in establishing a home and the local projects and did not wish to abandon it all unless absolutely necessary. By early November, though rumours of war vacillated, the market places were still full, weddings taking place, several Western aid organisations were still there i.e. in Kabul - where I returned, from time to time, to check on our house and remove personal belongings to our new location. During our time in Kabul, and during the time in the southern town, a British family also stayed with us, for several weeks. I have requested their testimony through my family - as I believe they returned to the U.K at the same time I evacuated to Pakistan - November 2001 - where I saw them last.

"FLIGHT"

As mentioned earlier, I returned to check on our house in Kabul a few times. The last time this happened I went to buy provisions and other household goods; then to enquire about the situation from some Pakistani aid workers, just outside the city. I had told my wife to expect me late that evening or early next day. But it was not to be: that same night it was rumoured that Kabul had fallen - without fighting - but it was now very dangerous - particularly for foreigners, as they would be bombed or

kidnapped or killed. Thus no one dared to risk evacuation through Kabul, and I began an arduous journey over mountain roads to what I thought would lead to my family. Instead we ended up completely lost driving most of the night, eventually reaching a high road with a pandemonium of vehicles heading south. I was distraught and devasted at not being able to reach my family, but knew that the other British family, and the Kurdish would not abandon them.

My own vehicle had been left in Kabul, and I had virtually only the clothes I wore with me. I kept asking people to take me back through Kabul - the only route I knew of to my family, but no one would agree. Eventually I got news that my family had been evacuated to the Pak border and that they would soon be safe in Pakistan. I arrived at Jalalabad the next morning, but there too things became unstable. It was said that highway robbers were abound now that there was no central authority, and foreigners were the target. The border crossings though unsafe, were still open for women and children.

However we continued south, and eventually came to a point where the roads ended and mountains began. We managed to hire a local guide to take us over the mountains into Pakistan. We were all Pakistani citizens - I a dual national. Interrogators have claimed my route was through Tora Bora. I do not know what the place was called nor did I stay to find out. I did meet other people evacuating this route - some may have been fighters - or just armed locals, as is common there.

Tora Bora (2)

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But there was no ~~big~~ fighting or bombing whilst I was there. I did not see the caves and weapons stashes that have been mentioned, nor were any of us armed during this journey. (Though, back in August I had purchased a rifle and hand gun - which had been left at home and in the vehicle respectively - and for which I had obtain licences. These were for my own protection and I did not discharge them on the frontlines, Tora Bora, or at any hostile engagement - since I was not present at such engagement to begin with).

Weapons. Arms

(This I believe is the extent of the information taken by law enforcement and twisted to fit me into "enemy combatant" status).

Support

I was reunited with my family in Islamabad, Pakistan, where we had requested financial help from family and friends in the U.K. I thanked the people that had helped my family and on return offered them assistance by staying at my new residence in Pak.

For the third time in as many months we began from scratch, making our home - that we had leased - and spent thousands of pounds, in purchasing needs for the empty house. So we were settled once more; my children in good local schools, my aunts and uncles in the same country fairly closeby; income from our house rented out in the U.K., and the money collected for us by friends and family. I had to buy new wardrobes of clothes for us all - my family also had evacuated in a hastey and desperate manner. Almost all our belongings were left between our Kabul residence - or the evacuation house. Still, we had to thank God that we were all safely

united. I have never wept so much in my entire life as during those days in November. I hated myself for being insane enough to bring my family to Afghanistan. It still hurts just to recall the memory. Even these three years in custody bear no equal to how destroyed my heart felt at that fateful time: Why did I not evacuate much earlier in to Pakistan? Why did I leave to visit Kabul that day? Why didn't I take the risk to return through Kabul? Why did I come to Afghanistan???

But in His mercy God gave us three more months together. I furnished the house with every new possible appliance to ease my family's burden. I bought home lavish foods every day. The children were so happy; and apart from the abandoned projects in ~~Pakistan,~~ Afghanistan, we were glad to be there. The phone lines were normal; Satelite T.V. was prevalent, internet available. I am fluent in Urdu; and Islamabad is the cleanest city in Pak. I was going to work on translating ancient Arabic texts; and establishing a new route to continue the School in Afghanistan - but keeping my base in Islamabad - after the war had simmered down.

For Eid, the great Muslim festival, we were going to tour the plush valleys of the North East, and visit my Aunt in Karachi - where I had lived some months in my ~~teens~~ teens. Happy days were ahead. My wife was expecting a child in June. Perhaps we'd return to the U.K. for the birth, and then come back. Then came the night of 31st January 2002. ~~10~~ Midnight. The door-bell rings. I answer, and guns are put to my head. I'm pushed in, see a taser crackle and I am hooded. Checkies and flexicuffs finish the job. They carry me into a vehicle - and I never return home again.

SEIZURE

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I couldn't even say a word to my wife. How could this be happening again? What did I - what did they do to deserve this? Some agents evidently stayed at the house. This is not Britain or the USA - even though the USA don't particularly care what the Pakistanis do, as long as they reach their target. I'm it. If they harm my family in anyway ....I'm held for three weeks. I have an anxiety attack. They didn't even give the opportunity to put my shoes on! So I'm ~~bare~~ barefoot. A sympathetic guard gives me a destroyed pair of sandals. I thank him. I hear sounds of banging at night. Must be nightshift works. Now I hear yells and hours of pain. Must be torture. A man is taken from my room (the officer incharge liked me, so he put me in a waiting room - for three weeks!) But it was a palace compared to the dungeon cells that housed several other miserables. I saw some of them when passing the bathroom. The cells were black, even with lights on! Damp, with dripping water and mouldy walls, no view except the cage entrant - and a beating with rubber pipes to look forward to everyday. Some had been there three months - some six. Back on my palace an Afghan shares the room. Accused of embezzling money from Hajj pilgrims. The agent enters, shakes my hand asks about my welfare; then approaches the Afghan and punches him in the face repeatedly. Then pulls him down from the shoulders, and knees him in the groin at least fifteen times! He is told to stand up - and cannot sleep for three days. Agents says "I'll teach him to talk languages you've never heard of." And so he confesses - to whatever. I'm left alone again. He goes home for Eid. My "Eid" will be in Kandahar. My family have no idea of my whereabouts. No one's even

demanding a reason!

I believed that our family had been divested of all the money in the house and house left pennies and aesthetic. To the agents who took several items from our house. (I have drawn an inventoried list of all items and money seized from our house on numerous occasions - but as usual, there is no response, nor accountability)

Thereafter followed an ordeal - in Kandahar and Bagram U.S. detention facilities - that was to last until 7th January 2003 - one year in all. During this period I was forced to share a bucket as a latrine with several others, forcibly stripped naked and photographed in front of several people; forced to take communal showers in freezing cold water, denied natural light and fresh food, for the duration.

INTERROGATION

Interrogation began in earnest from the outset; I was already witnessed the results of unsatisfactory interrogations (deprivation, racial and religious taunts) being chained to a door for hours - with a suspected physical sinking in a pool; blind arm twisting and forehead bruise and severed physical beatings. Two of these beatings resulted in the deaths of two detainees in June and December of 2002; I was a witness to both, in some fashion. In June the year interrogators from CID approached me about these incidents, producing pictures of both the victim and the accused - Sgt.

It was during the same time in Afghanistan around May, that I was targeted by US forces for secondary search procedures by US agents - with the consent they made it clear from the beginning that

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they would not accept my protestations.

All detainees were soon aware that one's treatment was based on accordance to his report with interrogators. Subsequently, it became clear that the guards were instructed to announce my 'punishment' directly after one such interview: I was dragged into an isolation room, my hands shackled from behind, to my ankles, and a suffocating hood placed over my head. (I am an asthmatic suffer - but my protests fell on deaf ears). I was struck around the head several times, then left in that manner, on the floor for several hours, only to be interrogated again. This time they threatened to have me sent to Cairo (Egypt) to face torture, by Egyptian thugs in the ~~police~~ intelligence service. It was to include electric currents, severe beatings and sexual abuse - and "other methods". This they said would vindicate U.S. personnel from actual involvement - merely observation. They told me that Ibn al-Sheikh (Libyan) had been sent there and "confessed" after two days. (But to what - I don't know). I spoke, later, with other detainees that had been sent to Egypt and questioned by U.S intelligence, whilst I was in Bagram.

It was ~~*~~ now that I truly realised how their perceptions were formed: Muslim + training camp + Afghanistan = al-Qaeda. That simple. And they needed results to show superiors how far they were progressing. Sadly their reasoning was most base, compounded by an ignorance or comprehending the nuances of the various groups and ideologies separate from al-Qaeda, as well as the strikingly obvious differences of cultures, schools of religious thought and language. I was astounded when they told me to "stop using big words", or repeatedly spell names, terms or places that are commonly known, even to English

speaker!

Saying that I was "already convicted" - (an inadvertant truth) - they intimidated me with threats of arbitrary incarceration, denial of legal rights, consular or family access. They waved photographs of my children, informed of me, claiming I would never see them again. Then, producing a mobile satellite phone I was told that my family were only a phone call away (from whom I'd had no news since my abduction four months earlier) - all I needed to do was tell them what they wanted to hear - whether about myself, or others. (And yet, the only crimes I've ever witnessed were perpetrated by U.S. personnel - as mentioned).

They said my only hope was through them: 'plea bargain', 'state witness' and 'witness protection' were all terms put forth. But even I knew that for that to occur there must be some relative crime. As I had no knowledge of such I would reasonably have to invent something! Of course they were well aware of that, and no court in the US would convict for crimes that do not exist. Finally, it was evident that they would require my assent to their own perceptions - which they, clearly, have presented in the statement that I signed - some seven months later, in Guantanamo

By early June (2002) the interrogators had left Bagram, and I did not see them again until my arrival in camp Echo, Guantanamo Bay - with memories fresh of the threats of summary trials, late imprisonment and execution, coupled with a year long ordeal sustained in Afghanistan - when I was processed in Delta

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STATEMENT

On 8th February (see 3, ~~[illegible]~~): On the night of 12th February they arrived at my cell in Camp Echo (where I have been held in isolation since that time). Along with six other CITF agents, bearing documents, i.e. a statement, for me to read and sign. My response was surprise, after all these months I had been led that the system in Guantanamo was much better and a resolution to my situation would be more apparent there. Thus I requested a lawyer and a copy of the statement. Both were denied.

They reiterated the previous threats, this time with less enthusiasm, adding that I could only have a lawyer after I signed. (Unknown to me, my U.K. lawyer had instructed the Centre for Constitutional Rights in New York, to initiate all legal proceedings on my behalf, on 10th February – just three days earlier! – (see Affidavit of Gareth Peirce, p. 5)). (I do not know why I was held in Afghanistan for such a long time; longer than any detainee that I know of. I witnessed four sets of detainees, and a week sent off to Cuba. I can only assume that it was because Guantanamo could change the status quo with things like Consular access, lawyers, visitors and the Red)

The statement was very poorly composed, and quite clearly written in haste – containing several spelling and blatant factual errors. Nonetheless, faced with the prospects so eloquently rehearsed by these characters, I relented and agreed to sign. I was permitted to make a little adjustment, but expressed clearly that I was wholly dissatisfied with its contents as – crafted but with fiction, disinformation, exaggeration and misrepresentation of the truth. I also expressed that

[illegible] a [illegible] During [illegible] I had had ample time to devise a lie. But they ignored stating that the information was required "Here and Then". And thus I signed. This is the basis in the official ~~detention~~ cause for detention that I believe is the bulk of the government evidence that is now deemed classified!

The uncontested factual basis that I have been [illegible], almost literally, the same wording, in a summarized manner.

It maybe suggested that I received such treatment due to an uncooperative attitude, or hostile nature - but nothing could be further from the truth. I have maintained a composed and compliant demeanour with all U.S. personnel, throughout the past three years. Rather, my cooperation with the said investigators produced the opposite effect: the more I offered an insight and educated background of history, events, politics and cultural differences - within various Islamic groups, countries and movements - the more they were convinced of my involvement. It did not occur to them that much of what I told them was common knowledge in that region of the world, or else could be easily learned from Google, internet or newspapers, if one has the inclination, and a penchant for erudition.

In my attendance of the training camp - where 10's of 1000's had trained, some extensively over the past 20 years - for a few days, was regarded as ground breaking information! And the same in relation to what meagre support I gave during a period of 18 months, or so.

Page 9: CONCLUSION

A matter which truly elicits my astonishment pertains to the seemingly extraordinary lengths taken by the U.S. authorities — from coordinating my initial abduction, kidnap and subsequent interrogations - totalling over 250 interviews; holding me in the Bagram detention facility for a year; placing me in isolation from all other detainees for two years, in Guantanamo; refusing to order a fair trial by peers - or repatriation to the U.K. (as officially requested); to the censoring of mail to ludicrous proportions (like children's letters), and the denial of all news relative even to my own predicament (until recently) — all because of the capricious notion that I may have been prepared to fight in a frontline scenario!? A situation in which it has not even been alleged that hostile encounters occurred - or even that U.S. troops were physically present - let alone combative engagements, or casualties!

And yet it is well known that the frontlines were manned by thousands of fighters - many from Pakistan - that fled to Pakistan after the U.S. invasion; but were neither pursued, sought after nor abducted from these homes.

To extrapolate such a prodigious status from my negligible - or rather imaginary - role as an "enemy combatant" epitomises the extent of the levels of paranoia which continue to plague the U.S. administration - subjecting hundreds of people to extraneous decisions in the process.

Clearly, I believe I am victim to the perception

and exploitation through some of my past activities and associations. However I maintain, never at anytime have I been involved in behalf of terrorists. The life - my own and that of my family, not have I supported such acts or had DIRECT knowledge of the same. - And I have never been a member of Al Qaida - or any other group (Islamic or organization). Though I have had sympathies and involvement with causes particularly motivated.

Many opportunities have arisen to engage in hostilities against the US. Not it is precisely because I am a Muslim citizen, understanding the special relations between the two countries (and for my own family concerns) that I decided not have contemplated aggression against the US.

I am a happily married man, with a wife and four young children at home - (one that was born five months after my abduction. That I've been told in pictures) It has now been nearly three years since I saw them last. We are not permitted any regular meaningful communication; the average letter arrives every six months with a British designate. We have lost our children's upbringing. Our lives have been shattered; my children are growing up without their father, during the most formative years of their life. Some call this "collateral damage" that we all bared - even children's lives are ruined when family lives. And I would ask simply this. What did I ever do to the US - or attempt to do?

I am not an enemy combatant, and never was.

It is time for the ordeal to end. Let me go home.

Binyam Mohamed #558

Third Geneva Convention

From Wikipedia, the free encyclopedia.

The **Third Geneva Convention** regarded the treatment of prisoners of war. It was adopted in 1929 as an extension to the rights guaranteed by the Hague Convention of 1907. It was revised in 1949, with the modified form adopted on August 12, 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from April 21 to August 12, 1949, and entered into force on October 21, 1950.

Those entitled to prisoner of war status include:

- 4A(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, provided that they fulfil the following conditions:
  (a) that of being commanded by a person responsible for his subordinates;
  (b) that of having a fixed distinctive sign recognizable at a distance (although this is not required under the First Additional Protocol);
  (c) that of carrying arms openly;
  (d) that of conducting their operations in accordance with the laws and customs of war.
- 4A(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.
- 4A(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

The exact definition of "lawful combatant" has been subject to a number of discussions in view of a number of public military conflicts in the 2000s, including the U.S. invasions of Afghanistan and Iraq. Because many of the people fighting do not have uniforms it is claimed that they do not display a "fixed distinctive sign recognisable at a distance" are not entitled to the protections of the Geneva Convention as they are not "lawful combatants" (see unlawful combatant). Problems with such distinctions include the status of snipers and special forces, who wear clothing such as Ghillie suits which are specifically intended to prevent identification of them at a distance and who seek to avoid being visible until the time of their attack, but who still want to be considered to be prisoners of war.

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Exemptions

There exists exemptions to the Third Convention for "High Contracting Parties" to this convention. In the case of a conflict between a signatory and a non-signatory the signatory shall remain bound until such time as the non-signatory no longer acts under the strictures of the convention.

(Art 2) "...Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof."

Exhibit D-F

agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Art. 4. A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:[(a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention: (1) Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Art. 5. The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Art. 6. In addition to the agreements expressly provided for in Articles 10, 23, 28, 33, 60, 65, 66, 67, 72, 73, 75, 109, 110, 118, 119, 122 and 132, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of prisoners of war, as defined by the present Convention, nor restrict the rights which it confers upon them.

Prisoners of war shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Art. 7. Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Art. 8. The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Art. 9. The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of prisoners of war and for their relief.

Art. 10. The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When prisoners of war do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

Art. 11. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a

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view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

Part II. General Protection of Prisoners of War

Art. 12. Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Art. 13. Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Art. 14. Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Art. 15. The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Art. 16. Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

Part III. Captivity

Section 1. Beginning of Captivity

Art. 17. Every prisoner of war, when questioned on the subject, is bound to give only his surname,

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first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Art. 18. All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Art. 19. Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Art. 20. The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

Section II. Internment of Prisoners of War

Chapter I. General Observations

Art. 21. The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound neither to require nor to accept from them any service incompatible with the parole or promise given.

Art. 22. Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Art. 23. No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG, placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Art. 24. Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment

as in other camps.

Chapter II. Quarters, Food and Clothing of Prisoners of War

Art. 25. Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Art. 26. The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Art. 27. Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Art. 28. Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Chapter III. Hygiene and Medical Attention

Art. 29. The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Art. 30. Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their. rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Art. 31. Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war.

Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Art. 32. Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

Chapter IV. Medical Personnel and Chaplains Retained to Assist Prisoners of War

Art. 33. Members of the medical personnel and chaplains while retained by the Detaining Power with a view to assisting prisoners of war, shall not be considered as prisoners of war. They shall, however, receive as a minimum the benefits and protection of the present Convention, and shall also be granted all facilities necessary to provide for the medical care of, and religious ministration to prisoners of war.

They shall continue to exercise their medical and spiritual functions for the benefit of prisoners of war, preferably those belonging to the armed forces upon which they depend, within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services, in accordance with their professional etiquette. They shall also benefit by the following facilities in the exercise of their medical or spiritual functions:

(a) They shall be authorized to visit periodically prisoners of war situated in working detachments or in hospitals outside the camp. For this purpose, the Detaining Power shall place at their disposal the necessary means of transport.

(b) The senior medical officer in each camp shall be responsible to the camp military authorities for everything connected with the activities of retained medical personnel. For this purpose, Parties to the conflict shall agree at the outbreak of hostilities on the subject of the corresponding ranks of the medical personnel, including that of societies mentioned in Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This senior medical officer, as well as chaplains, shall have the right to deal with the competent authorities of the camp on all questions relating to their duties. Such authorities shall afford them all necessary facilities for correspondence relating to these questions.

(c) Although they shall be subject to the internal discipline of the camp in which they are retained, such personnel may not be compelled to carry out any work other than that concerned with their medical or religious duties.

During hostilities, the Parties to the conflict shall agree concerning the possible relief of retained personnel and shall settle the procedure to be followed.

None of the preceding provisions shall relieve the Detaining Power of its obligations with regard to prisoners of war from the medical or spiritual point of view.

Chapter V. Religious, Intellectual and Physical Activities

Art. 34. Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

Art. 35. Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

Art. 36. Prisoners of war who are ministers of religion, without having officiated as chaplains to their own forces, shall be at liberty, whatever their denomination, to minister freely to the members of their community. For this purpose, they shall receive the same treatment as the chaplains retained by the Detaining Power. They shall not be obliged to do any other work.

Art. 37. When prisoners of war have not the assistance of a retained chaplain or of a prisoner of war minister of their faith, a minister belonging to the prisoners' or a similar denomination, or in his absence a qualified layman, if such a course is feasible from a confessional point of view, shall be appointed, at the request of the prisoners concerned, to fill this office. This appointment, subject to the approval of the Detaining Power, shall take place with the agreement of the community of prisoners concerned and, wherever necessary, with the approval of the local religious authorities of the same faith. The person thus appointed shall comply with all regulations established by the Detaining Power in the interests of discipline and military security.

Art. 38. While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

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Chapter VI. Discipline

Art. 39. Every prisoner of war camp shall be put under the immediate authority of a responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Art. 40. The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Art. 41. In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Art. 42. The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall always be preceded by warnings appropriate to the circumstances.

Chapter VII. Rank of Prisoners of War

Art. 43. Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Art. 44. Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Art. 45. Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

Chapter VIII. Transfer of Prisoners of War after their Arrival in Camp

Art. 46. The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation.

The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health.

The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

Art. 47. Sick or wounded prisoners of war shall not be transferred as long as their recovery may be endangered by the journey, unless their safety imperatively demands it.

If the combat zone draws closer to a camp, the prisoners of war in the said camp shall not be transferred unless their transfer can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

Art. 48. In the event of transfer, prisoners of war shall be officially advised of their departure and of their new postal address. Such notifications shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited, if the conditions of transfer so require, to what each prisoner can reasonably carry, which shall in no case be more than twenty-five kilograms per head.

Mail and parcels addressed to their former camp shall be forwarded to them without delay. The camp commander shall take, in agreement with the prisoners' representative, any measures needed to ensure the transport of the prisoners' community property and of the luggage they are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph of this Article.

The costs of transfers shall be borne by the Detaining Power.

Section III. Labour of Prisoners of War

Art. 49. The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Art. 50. Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

(a) agriculture; (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose; (c) transport and handling of stores which are not military in character or purpose; (d) commercial business, and arts and crafts; (e) domestic service; (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

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Art. 51. Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Art. 52. Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Art. 53. The duration of the daily labour of prisoners of war, including the time of the journey to and fro, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

Art. 54. The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Art. 55. The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

Art. 56. The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his

camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Art. 57. The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

Section IV. Financial Resources of Prisoners of War

Art. 58. Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Art. 59. Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Art. 60. The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I : Prisoners ranking below sergeants: eight Swiss francs.

Category II : Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV : Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V : General officers or prisoners of war of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above; (b) may temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own

armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Art. 61. The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Art. 62. Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Art. 63. Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependents shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power, a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

Art. 64 The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

(1) The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

(2) The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Art. 65. Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

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When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Art. 66. On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

Art. 67. Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Art. 68. Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

Section V. Relations of Prisoners of War With the Exterior

Art. 69. Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Art. 70. Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Art. 71. Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to

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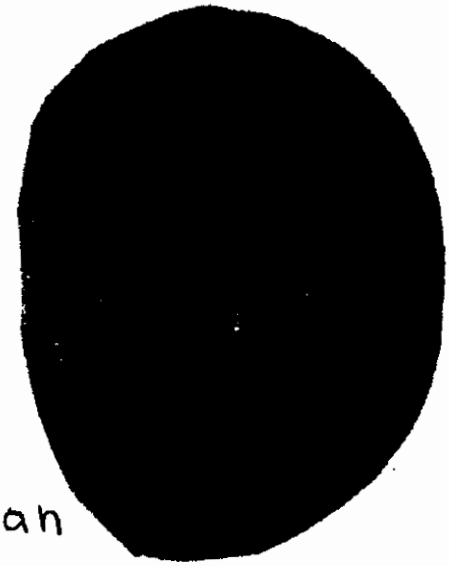
٢ تشرين الثاني (٢٠٠٤)

لم أرى هذا الرجل من قبل

محمد نور



I Have not seen this man before.

Mohammad Nour

I Certify That The above is the Correct Translation.

SOUAD BAZOUN, OL-13

I certify that the detainee, ISN 707, stated the above and could not write his signature. Detainee was shown photo of ISN 558.

MARK WILBANKS, Lt Col, USAFR
Personal Representative
10 NOV 2004

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EXHIBIT D-G

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