

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SALAH ABDUL RASUL ALI ABDUL)
RAHMAN AL BALUSHI, *et al.*)
)
Petitioners,)
)
v.) Civil Action No. 04-CV-1227 (RBW)
)
GEORGE W. BUSH,)
President of the United States, *et al.*,)
Respondents.)
)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

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

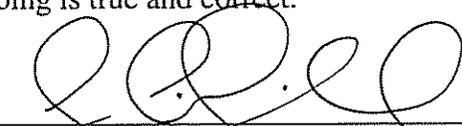
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Salah Abdul Rasul Ali Abdul Rahman Al Balushi that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are

not attached hereto. I have redacted information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

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

Dated: 12 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser: 0194
11 October 2004

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From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

Distribution:

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

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1478

8 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #6 of 13 September 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and affirmatively declined to participate in the Tribunal proceedings.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibits R-3, R-8, R-14, R-17 and R-18, was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

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

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



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #6

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

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

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

MEMBERS:

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

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

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

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

30 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (3).

(U) TRIBUNAL PANEL: #6

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #6 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

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

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 28 September 2004, the Tribunal determined by a preponderance of the evidence that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).

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

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

[REDACTED]

Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #6
ISN #: _____

1. Introduction

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

2. Synopsis of Proceedings

The Tribunal held this hearing on 28 September 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that the detainee is associated with Al Qaida; that he traveled from Bahrain to Afghanistan via Pakistan in August 2001; that he gave his passport to an Al Qaida recruiter; that he traveled with an Al Qaida commander after leaving a Jalalabad hospital; that the Al Qaida commander fought on the front lines with the Taliban against the Northern Alliance; and that the detainee was captured by Pakistani authorities in December 2001 as he fled Afghanistan. The Recorder called no witnesses.

The detainee did not attend the Tribunal and affirmatively declined to participate in the Tribunal process. He also stated he did not want the Personal Representative to present any evidence or make any statements on his behalf. The detainee's decision is reflected on the Detainee Election Form (Exhibit D-A). The Personal Representative presented no evidence and called no witnesses on behalf of the detainee.

During the classified session of the Tribunal, the Recorder presented Exhibits R-3 through R-27. The Personal Representative presented no classified evidence. The Recorder commented on the classified exhibits; the Personal Representative had no comments. After considering the unclassified and the classified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-27 and D-A.
- b. Testimony of the following persons: None.
- c. Statement of the detainee: None.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2, the FBI redaction certification, provided no usable evidence. Because there was no other unclassified evidence for the Tribunal to consider, the Tribunal had to look to the classified exhibits to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT Legal Advisor.

7. Conclusions of the Tribunal

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

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

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

c. The detainee is properly classified as an enemy combatant because he was part of or supporting Al Qaida forces.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large, dark, irregularly shaped redaction covering the signature of the Tribunal President.

Colonel, U.S. Army
Tribunal President

DETAINEE ELECTION FORM

Date: 27 Sept 2004

Start Time: 0745 hrs

End Time: 0830 hrs

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? MODERN ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee [REDACTED] unclassified summary was read to him. He asked questions and read the translated unclassified summary himself. At the conclusion of the interview, he affirmatively declined to participate in the Tribunal. In addition, he stated that he does not want me to present any evidence or make any statements on his behalf. He was asked if he would regret not participating in the Tribunal if he is found to be an EC. He stated he would not.

Personal Representative: [REDACTED]

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL BALUSHI, Salah Abdul Rasul Ali Abdul Rahman

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is associated with al Qaida and a Taliban fighter.
 - a. The detainee is associated with al Qaida:
 1. The Detainee traveled from Bahrain to Afghanistan via Pakistan in August 2001.
 2. Upon arriving in Kandahar, the Detainee spent two weeks in a guesthouse.
 3. The Detainee's host while staying in Kandahar is a suspected al Qaida recruiter.
 4. At the suggestion of the suspected recruiter, the Detainee gave his passport to a scholar at a local institute.
 5. The scholar to whom the Detainee gave his passport is an al Qaida recruiter.
 6. An alias used by the Detainee, and the name of the person to whom he gave his passport, were found on lists discovered during searches of suspected al Qaida safe houses in Afghanistan during November 2001.
 7. While in a Jalalabad hospital, the Detainee met an Egyptian, and then traveled with him to a small village.
 8. The Egyptian has been identified as an al Qaida commander and trainer.

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UNCLASSIFIED

Exhibit 14821

UNCLASSIFIED

9. The Egyptian fought in the front lines with the Taliban against the Northern Alliance.
 10. The Detainee was captured by Pakistani authorities in December 2001 as he fled Afghanistan.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Memorandum

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To : Department of Defense Date 09/27/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
[REDACTED]

Subject: REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

- FD-302 dated 03/26/2002
- FD-302 dated 05/20/2002
- FD-302 dated 07/12/2002
- FD-302 dated 06/12/2003
- FD-302 dated 06/25/2003

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

²See Executive Order 12958

pg 1 of 2

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/27/2004

If you need additional assistance, please contact

[REDACTED]
[REDACTED] or Intelligence Analyst [REDACTED]

[REDACTED]
Intelligence Analyst [REDACTED]

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Personal Representative Review of the Record of Proceedings

I acknowledge that on 29 September 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]

Name

29 Sept 2004
Date

[REDACTED]

Signature

ISN # [REDACTED]
Enclosure (4)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDULLAH KAMEL ABUDALLAH)
KAMEL, *et al.*,)
)
Petitioners,)
)
v.) Civil Action No. 04-CV-0828 (CKK)
)
UNITED STATES OF AMERICA, *et al.*,)
)
Respondents.)
)
)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Abdullah Kamel Abudallah Kamel that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached

hereto. I have redacted names and addresses of detainee family members and information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

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

Dated: 12 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser: 0203
11 October 2004

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From: Director, Combatant Status Review Tribunal

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

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

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

A handwritten signature in black ink, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

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

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9 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

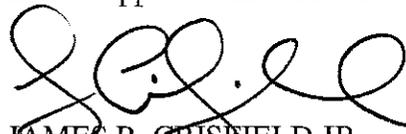
Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibit R-4 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

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

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



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

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

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

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

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

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

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

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

6 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #5

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #5 of 17 Aug 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

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

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 30 Sep 04 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference(c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED] Col, USAF

Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #5
ISN #: [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of the evidence presented to the Tribunal by the Recorder indicated that the detainee has been classified as an enemy combatant because he is believed to be a member of al Qaida. In support of this claim, the unclassified summary of the evidence listed three allegations. Those allegations were as follows:

1. Detainee traveled to Afghanistan, via Iran, after 11 Sep 01 with approximately \$15,000;
2. Detainee was captured with a Casio watch, model F-91, a common watch used by al Qaida operatives to detonate improvised explosive devices; and,
3. One of detainee's known aliases was on a list of captured hard drives associated with a senior al Qaida member.

The detainee chose to participate in the Tribunal process. He called no witnesses and requested no documents be produced. He made a sworn verbal statement in which he attempted to explain the reasons for his trip to Afghanistan and denied being a member of al Qaida.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-21.
- b. Sworn statement of the detainee.

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

The Detainee requested no witnesses; no rulings were required.

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

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1, R-2, and R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Exhibit R-3 was a list of questions sent to the family of Detainee # [REDACTED] and the family's reply. In this exhibit, the detainee's family independently corroborates some aspects of the detainee's previous statements to interrogators and certain portions of his oral statement during the hearing. The Tribunal found this information somewhat helpful in making its determinations. Largely, however, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. The most significant unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). The detainee testified generally about his background and family life, and specifically in regard to the events leading up to his capture. The detainee testified that he is a public employee in Kuwait who supports his extended family through his job with the Kuwaiti Ministry of Electricity and Water. After the events of 11 Sep 01, he heard about the suffering of the Afghani refugees and felt compelled to donate to their relief. When relief organizations that he contacted informed him that they were not providing relief to the people in Afghanistan, he decided to travel there himself. He traveled to Afghanistan through Iran and spent a period of time there purchasing and distributing supplies to the needy. He spent approximately \$13,000 of the \$15,000 he brought with him in this way. He kept his last \$2000 for the trip home, but was repeatedly turned away at the Iranian border in his attempts to return home the way he came. The man he was working with in Afghanistan suggested that he attempt to return home through Pakistan. He hired two Afghani guides to lead him to Pakistan, thinking they would take him to the Kuwaiti embassy. Instead, after keeping him in a private home for a few days, they took him to a mosque where many other Arabs were being held. Shortly after arriving he and the rest of the Arabs in the mosque were taken away in buses and treated as captives. He eventually wound up in the hands of American forces. He also testified that his watch is similar to watches worn by many Kuwaiti citizens and is popular because it has a compass by which a person can locate Mecca, and an alarm that can be set to ring at daily Muslim prayer times. As for

his name being on the captured hard drives, he said he believed that pictures and names were taken of all the Arabs captured in the mosque and posted on the internet as "al Qaida" members in captivity.

The Tribunal also relied heavily on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

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

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant and is a member of, or associated with, al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Tribunal President

Summarized Sworn Detainee Statement

[The Tribunal President asked if the detainee understood the CSRT process]

Detainee: Yes.

[The Tribunal President asked if the detainee had any questions concerning the Tribunal process]

Detainee: No

Detainee: The paper that my family sent, is that part of the evidence?

Tribunal President: It is additional information that has been provided to us.

[The Tribunal President asked if the detainee wanted to make a statement the detainee stated, "yes", and provided the following statement after electing to be sworn]:

I want to tell my story from the beginning. You know what happened on 11 September. Shortly after, I heard about eight million people wanted to leave Afghanistan and go to Iran. They were stuck. Iran wanted them to go inside Iran. They prayed to go to the war. The poor people were suffering and I want to give to the Aid committee. I wanted to give them money to send to the poor people. They told me no and said they didn't go there. The poor people were abused. So, I thought to myself, I have money, I have my feet, my car, I have everything. I thought of the poor there, children and old men. I thought of my family and my emotions over came me. So, I told myself I would go. I left and met a person in the Mosque. I can't think of his name.

[Tribunal Member asked the Detainee]: When you say there, do you mean Afghanistan or Iran?

Detainee: No, Kuwait. When I went to the Mosque in Kuwait I told the man I want to give. He said good and thank you. He told me to go to Iran, I think to Tabat. I went to Iran and they stamped my passport. I showed them a paper and told them I want to go to this place. I went there and showed some one the paper. They told me thank you for helping the poor people. I took \$15,000.00 dollars. He did everything; he bought them blankets and food. I was there about ten days. I took a vacation from my job. I didn't know there was a war. When I finished I wanted to go back to my country. When I got to the Iranian border, they told me no. I asked why, you stamped my passport when I came in. I told them I wanted to go to my country and they told me I was not allowed. I asked the man with me, what do we do? He told me of a place called Jalalabad. I told him okay and we went to Jalalabad. He put me in a home and he went back to the border. They told him no, I couldn't leave the country because I am Arabic. I was then moved from home to home. The problems got worse. The people there wanted to kill Arabics. I was told to be careful and don't go anywhere. I was always stuck in a small room and

ISN # [REDACTED]
Enclosure (3)
Page 1 of 8

never went out. They would bring me food. My passport was in my jacket pocket and I left it somewhere. They continued to move me from house to house. I continued to say that I wanted to go home and I was told I couldn't. I told them I would give them anything and told them I had children and a pregnant wife. I told them I had a good job and if I didn't get back I would lose my job. I was told not to worry and was brought two people to guide me. We left in the snow and went through the mountains. I saw death but I wanted to go home. We arrived in Pakistan and I was put in another home. Every couple of days I was moved to a different house. One night they came and got me. I asked where we were going and told them I wanted to go to my embassy. They told me okay and took me to a Mosque. There were about one hundred people at the Mosque. They started to pick ten people at a time. I was told not to worry; I would get to my embassy. I was then put in a jail and they didn't take any of my information. I was then put in a bus; there were three of them. I was put in the first bus and told not to worry I was going home. When the bus stopped, we were told to "go, go, go." I asked what was happening but no one knew. I was put in another jail and searched. Everything was taken from us. We were given no food or blankets. We heard later that many of the people on the bus behind us were killed. We were then put in a truck and we drove for about twenty hours with our hands tied. We asked why and were told to shut up and we were hit. They took us to a big jail. We were investigated and then sent to Kandahar and then to Cuba.

[The Detainee then asked if the Tribunal wanted him to address each of the charges on the unclassified summary. The Tribunal President told the Detainee if he wanted to that would be fine.]

Regarding the allegation 3. A 1. (Detainee traveled to Afghanistan, via Iran, after 11 September 2001, with approximately \$15,000 U.S. dollars.)

Detainee: About the \$15,000.00 dollars, was it clear or do you want me to tell you again?

Tribunal President: We understood from your statement, we understood what you were saying.

Regarding the allegation 3. A 2. (Detainee was captured with a Casio watch, model F-91W, a common watch used by Al-Qaeda to detonate improvised explosive devices.)

Detainee: About the Casio watch I had. When they told me that Casio's were used by Al-Qaeda and the watch was for explosives, I was shocked. We have two watches in Kuwait, Fossil and Casio. The watch shows the direction of Mecca.

[The Tribunal President asked if it had a compass.]

Detainee: Yes. It can show me from anywhere in the world. I go all over the world. I am Muslim and pray five times a day. I need it. Many people in Kuwait have this watch. It's not tied to an Al-Qaeda company is it? I swear I don't know if terrorist use it or if

they make explosives with it. If I had known that, I would have thrown it away. I'm not stupid. We have four Chaplains [at Guantanamo] all of them wear this watch. I am not Taliban or Al-Qaeda.

Regarding the allegation 3. A 3. (One of the Detainee's known aliases was on a list of captured hard drives associated with a senior Al-Qaeda member.)

Detainee: Can you tell me the name that was found in the computer?

Tribunal President: We don't have that information in the unclassified evidence. I don't know what name was in the computer at this time.

Detainee: If he put my name Adullah Kamal, I am famous at home. I play on the National Volleyball team. Why he put my name in the computer, I don't know. They don't know me I swear they don't know me. Look at me, look at the clothes I wear and how tall I am. I have a large scar on my hand. (inaudible) I would like to know the name. I go by Saliman, my son is [REDACTED] and there are many Salimans. The problem is the secret information, I can't defend myself. I have money, I have cars, I have my children, I have my wife and unborn children and I'm going to be Al-Qaeda? I'm not stupid and I'm going to do this against the biggest country in the world, America. When I was told I was Al-Qaeda I was shocked. They don't have any evidence against me, to put me here. I don't have a choice, God is well here, so I'll be patient. Why did they put me here like this?

Tribunal President: That's what we are here to determine.

Detainee: That is my statement, thank you.

Summarized Answers in Response to Questions by the Personal Representative

Q. What nicknames are you known by?

A. Al Saliman.

Tribunal President: And just so we understand what does that mean?

Detainee: If you call your son John, its father of John, If you call your son Smith, its father of Smith.

Tribunal President: I knew that but I wanted it for the record that what that means is, you are the father of [REDACTED].

Detainee: Yes my son is [REDACTED]. We have a different culture. If he called me Abdullah, its kind of disrespectful, it's normal but not nice.

Q. Is your name a common name in Kuwait?

A. Yes, many Abdullah's.

Q. You told us you have a good job, what do you normally do with your salary?

A. I make a good salary about \$3,700. My wife works and we make about \$4,500.

Q. Do you spend all of your money?

A. Because of the troubles we had in the past, I try not to spend my money. I put half of my money in the bank and the other half in my home. If there is trouble at the bank I have my money at the house. If some one steals the money in my home, I have the money in the bank. I take care of my children, my father in-law, my sister and her four children. Her husband has a drug problem, so she lives in my home. When this situation happened, my emotions took over. I try to keep my money, I'm not a stupid man that gives my money away.

Summarized Answers in Response to Questions by the Tribunal Members

Q. You're educated as an Electrical Engineer, is that correct?

A. Assistant Engineer.

Q. Assistant Electrical Engineer?

A. Water and Electricity. The Ministry of Water and Electricity.

Q. So, you know how to design and build electrical devices?

A. That is not my Major. I am the water manager. I watch the people dig the holes and set the pipes. I make sure they are right, they are covered right and the pressure is right. I do not work with electricity only water. I am the supervisor.

Q. Were you educated at a University for this job?

A. Academy.

Q. The Casio watch you had, was it in anyway altered so it would emit electrical signals?

A. Only a battery change.

Q. So, it couldn't transmit anything, just a regular watch?

A. If it were altered it would have been stupid to keep it.

Q. Where did you stay in Afghanistan? Can you tell me about the guesthouses you stayed at?

A. They were not guesthouses they were normal houses. I was always hiding.

Q. And you had to do this because they felt that the Pashtu hated Arabs?

A. Yes, Pashtu are Afghanis.

Q. You said you had a letter from your Imam for permission to travel, is that what that letter is for?

A. I don't understand.

Personal Representative: Whom did you get the letter from when you were looking for instructions on how to get to Afghanistan?

A. What letter?

Q. Why did you need, you said when you left Kuwait you went to your Imam at the Mosque?

A. Ahh. This was normal, the Imam doesn't know anything, he is Kuwaiti. He doesn't know about Pakistan or Afghanistan. He told me he would write me a letter. He said you go to Iran, go across the border, go to Tabat, and use the letter. I don't know Pashtu or the Iranian language.

Q. So, the letter was written in Pashtu.

A. I don't know.

Q. Did he make travel arrangements for you or did you do those yourself?

A. I did them, he is a poor man, he just gave me the letter.

Q. So, it is sort of a letter of introduction?

A. Yes.

Q. Did you ever receive military training?

A. No, I have been excused from the military because of my hand.

Q. Did you ever see any fighting in Afghanistan?

A. No.

Q. Did you ever interact with any Taliban members or Al-Qaeda?

A. No.

Q. The evidence says when you were captured you still had \$15,000 on you?

A. No I spent it.

Q. You had spent it already?

A. Yes. I spent \$13,000.00 and kept \$2,000.00 for travel. I gave it to the poor people.

Tribunal Member: You're right, I misread it. I apologize. It does say you traveled there with \$15,000.00 dollars.

Q. So, you gave \$13,000.00 to the poor people and kept \$2,000.00 to help you get back?

A. Yes.

Q. When you left Afghanistan, whom did you travel with, who were your guides, and were you in the company with some one when you went to Pakistan?

A. Two people in Afghanistan who showed me the way.

Q. Do you know who they were?

A. I gave them money and said let's go.

Q. Just the three of you traveled across the border?

A. Yes.

Q. And when you got to Pakistan were you in a group of other people or other Arabs?

A. No. Only at the Mosque.

Q. Had you heard of Al-Qaeda before you left?

A. Everybody talks about them.

Q. What is your opinion of Al-Qaeda?

A. They are terrorist, vicious.

Q. Do you have any other evidence to present to this Tribunal?

A. No.

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. No.

[After the Tribunal closed and the Tribunal Members departed the room, the Detainee told his Personal Representative he forgot to say something that was very important.]

Tribunal President: The Detainee has stated he has something that he wanted to tell us, so we will reconvene the Tribunal in the unclassified session.

Detainee: I am sorry to get you back here.

Tribunal President: That's all right. It is important that you have the opportunity to tell us. We understand the importance to you.

Detainee: About when I was in Pakistan. People came and took our pictures. They took my picture and other prisoner's pictures and put them on the internet. They put us on list and said these people are Al-Qaeda and these people are Amujahadine. That is an important thing; I didn't have any choice in this. They took many pictures of me. Maybe they listed me as Al-Qaeda, but I swear I am not part of them.

Tribunal Member: So, you are saying they took you picture after you were captured and then put it on the internet and maybe that's how it got on this hard drive from there?

Detainee: Yes. I didn't believe it at first but then when I came to court and they told me my name was on the internet. I thought to myself, why did they put my name on the internet, and what name did they use?

Tribunal President: Thank you for your statements and we will take them all into account. Is there anything else you would like to tell us.

Detainee: Thank you and sorry again for bringing you back.

AUTHENTICATION

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


Col, USAF
Tribunal President

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (20 September 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - KAMAL, Abdullah

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of al Qaeda.
 - a. The detainee is a member of al Qaeda:
 1. Detainee traveled to Afghanistan, via Iran, after 11 September 2001, with approximately \$15,000 U.S. dollars.
 2. Detainee was captured with a Casio watch, model F-91W, a common watch used by al Qaeda to detonate improvised explosive devices.
 3. One of the detainee's known aliases was on a list of captured hard drives associated with a senior al Qaeda member.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Exhibit 1B11

Memorandum



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT
Date 09/15/2004

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC, GTMO:
FD-302 dated 07/30/2002

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

²See Executive Order 12958

pg 1 of 2
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Exhibit R2

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/15/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

pg 2 of 2

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1. Abdullah Kamel Abdullah Kamel Al Kandari

pg 10/6

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Exhibit 151A3

**QUESTIONS FOR THE FAMILY OF
ABDULLAH AL KAMEL**

1. Please provide Al Kamel's biographic information: given name, other names he is known as, date of birth, place of birth and home address.
2. Please provide the family's information: father, mother, brothers, sisters, wife (include date of marriage), and children.
3. What is Al Kamel's educational background? What school(s) did he attend as a child? Did he graduate from high school, and if so, when and where?
4. Did he attend college/university and where? How was his education financed (ie scholarship, self financed, etc)? What did he study? Did he earn a degree and if so in what? What did he do after college?
5. Provide his employment history: Who has he worked for, how long, what were his duties?
6. What did Al Kamel tell you before he left for Afghanistan?
7. What did Al Kamel say in the phone calls home while he was in Afghanistan?
8. What Mosque did Al Kamel normally go to?
9. Had Al Kamel expressed interest in humanitarian work prior to Sept 11? If so, please describe.
10. Has Al Kamel donated money or time to other humanitarian organizations? If yes, which ones?
11. What countries has he traveled to, when (dates), for what purpose, and how long did he stay?
12. What has he told you about his travels? What did he do during his travels? Who did he meet? What was his relationship to the people he met (acquaintance, business associate, friend)?

pg 2 of 6

UNCLASSIFIED

ANSWER TO THE QUESTIONS FOR THE FAMILY OF
ABDULLAH AL KAMEL

1. Name : Abdullah Kamel Abdulla Kamel
No other names :
Date of birth : [REDACTED] 1973
Place of birth : Kuwait
Home Address : [REDACTED]
2. Father Name : [REDACTED]
Mother Name : [REDACTED]
Brothers Names : [REDACTED]
Sisters Names : [REDACTED]
- Wife name : [REDACTED]
Date of Marriage : 5th August 1996
Children Name : [REDACTED] (Baby [REDACTED] born while
the father in Guantanamo detention)
3. His educational background is
- Kindergarten : Baghdad in Hawally
Elementary School : Ibn Zaidoon in Hawally
& Abdulla Bin Katheer in Salwa
Middle School : Sabah Al Salem in Sabah Al Salem area
High School : Saleh Shihab in Mushrif
4. He attend College of Electricity and Water in Kuwait. It is a governmental college free of cost. He earned a diploma in Electricity and Water and after graduation he applied for a governmental job.
5. He worked for Kuwait government at the Ministry of Electricity and Water as an assistant electrical engineer, he worked for about 8 years, no specific information about his job duties.
6. He mentioned that he is going for charitable works and he went to Iran to the borders of Afghanistan and Iran and he did not mentioned that he is going to Afghanistan. He went to this area (Iran and Afghanistan borders) to provide his assistance and to offer his help and to aid the Afghan refugees and poor people there for a short period of time and to come back.
7. He said that he is fine and he will come back as soon as he can.
8. He normally goes to Rafi'e ben Khadeej mosque at the neighborhood.
9. Yes, he always express interest in humanitarian work prior to September 11 and he participate and volunteered in many charitable works.

pg 3 of 6
UNCLASSIFIED

10. Yes, he normally donates money to some local humanitarian organizations such as Islamic Work Committee and Islamic Restoration Society, also he had a monthly deduction from his account to many of charitable projects in and outside the country.
11. He traveled to Egypt and Lebanon for honeymoon and to Saudi Arabia to visit the Holy Mecca for worshipping, and to Bahrain visiting relatives to the family, and also some European countries when he was in the Youth National Team.
12. Sometimes he mentioned some tales and jokes happened to him there during his journey or that he sometimes get sick because of the weather change, he enjoyed time and visit famous places, the Pyramids, he did not mentioned any special meeting during his trips.

pg 4 of 4

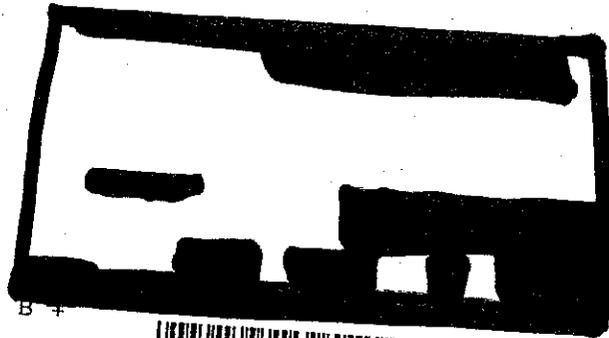
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الرقم المدني ٢٧٣٠٩١٧٠٠٤٥١



الاسم
عبد الله كامل
عبد الله كامل

الجنسية كويتي
الميلاد [redacted] بئس ذكر
تاريخ انتهاء البطاقة ٢٠١٠/٥/٢٣



117943328

PO SOB4

State of Kuwait

Civil ID Card

Civil No. 273091700451
Name Abdullah Kamel Abdullah Kamel
Nationality Kuwait
Date of birth [REDACTED]/1973 Sex Male
Expiry Date 23/5/2010

Overleaf:

Civil No. of the concerned party 273091700451
Nationality No. 105311349
Address [REDACTED] [REDACTED]
Street [REDACTED] [REDACTED]
Building/ Plot [REDACTED] Type of Unit [REDACTED]
Unit No. -- Floor --
Tel. No. [REDACTED] Blood Group B +

PS 6086

UNCLASSIFIED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMED FENAITEL MOHAMED)
AL DAIHANI, *et al.*,)
)
Petitioners,)
)
v.) Civil Action No. 04-CV-0828 (CKK)
)
UNITED STATES OF AMERICA, *et al.*,)
)
Respondents.)
)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

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

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

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mohammed Fenaitel Mohamed Al Daihani that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are

not attached hereto. I have redacted the names and addresses of detainee family members and information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

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

Dated: 12 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser: 0205
11 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

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

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1522

9 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #8 of 13 September 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement in the course of the Tribunal proceedings.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). The Tribunal requested the Recorder to gather additional documentary evidence. Those documents were attached to the Record of Proceedings as exhibits R-17 and R-18.
- d. The detainee made no requests for witnesses or evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. Although the facts of this case probe the outer limits of the definition of "enemy combatant," the Tribunal did not abuse their discretion. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

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



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #8

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

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

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

MEMBERS:

[REDACTED], Colonel, U.S. Marine Corps Reserve; President

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

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

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

6 October 2004

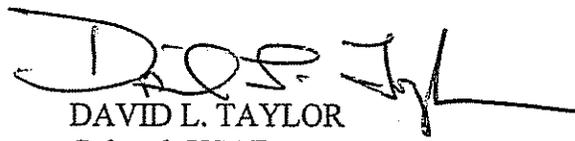
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #8

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #8 of 13 September 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

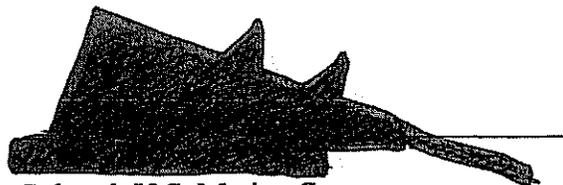
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 28 September 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant, as defined in reference (c).

2. (U) On 30 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant, as defined in reference (c). Absent evidence showing that the Detainee knew his contributions were indirectly funding terrorist organizations, the Tribunal also recommends his case be reviewed by an Administrative Review Board to be considered for release as soon as possible.

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

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



Colonel, U.S. Marine Corps
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #8 _____

ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and was part of, or supporting, al Qaida, which is engaged in hostilities against the United States and its coalition partners. The Tribunal recommends an Administrative Review Board review this Detainee's status as soon as possible to determine appropriateness for release, as is more fully discussed in paragraph 1 to Enclosure (2) to the CSRT Decision Report. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder on 28 September 2004 indicated that in 2000, the Detainee traveled from Kuwait to Mecca, Saudi Arabia where he met Faisal, an employee of the Sanabal Charitable Committee. This committee is considered to be a fund raising front for the Libyan Islamic Fighting Group (LIFG). On 9 September 2001, the Detainee flew from Kuwait to Karachi, Pakistan where he again met with Faisal and a new individual, Abdul Hakeem. Abdul Hakeem is identified as an employee of the Sanabal Charitable Committee and a major recruiter for the LIFG. The Detainee traveled to numerous places in Afghanistan until he was smuggled into Pakistan. At this time, he was picked up by Pakistani authorities and turned over to the United States. The Detainee's name appeared on a list on a captured hard drive that was associated with a senior al Qaida member. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made an oral, sworn statement. The Detainee, in his oral statement, denied being a member of al Qaida. He addressed all thirteen accusations that were mentioned in the Unclassified Summary of Evidence and a summary of his testimony follows in paragraph 5e below. Additionally, this Tribunal reconvened the classified session on 30 September 2004. The recess was provided to allow time to locate additional data needed to clarify some of the information provided in the classified documents.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, and R-1 through R-19.
- b. Testimony of the following persons: None.
- c. Sworn statement of the Detainee.

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

The Detainee requested no witnesses or requested additional evidence be produced; therefore, no rulings on these matters were required.

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2, a request from the Federal Bureau of Investigation to redact certain information from the FBI Form 302 or FD 302 was not helpful to the Tribunal in determining whether the Detainee was properly classified as an enemy combatant. The Tribunal therefore found Exhibit R-2 to be without merit.

b. Exhibit R-3 was a copy of a civil complaint filed on behalf of the Detainee by legal counsel in U.S. Federal Court. A cover sheet from the Detainee's legal counsel is dated 8 July 2002. This document was a copy of an "amended complaint" that has been filed for the Detainee in the United States District Court for the District of Columbia by Mubarak F.S.M. al Daihani, the "next friend" of the Detainee. While it illustrated the fact that the Detainee is listed as a plaintiff in a civil case currently pending with the U.S. District Court, it had no bearing on the Detainee's enemy combatant status. The Tribunal therefore found this evidence unpersuasive in making its determinations.

c. Exhibit R-4, Terrorist Organization Reference Guide, January 2004. This guide is a helpful tool because in this case, it provides information on the Libyan Islamic Fighting Group. Additionally it provided a "Terrorist Exclusion List" which showed that the Revival of Islamic Heritage Society's Pakistan and Afghanistan offices are officially designated as terrorist organizations, while the Kuwait office is not. The Detainee is a Kuwaiti national and is presumed to have made his contribution to the Kuwait office of this organization, as the Tribunal saw no evidence to the contrary.

d. Exhibit R-5, Questions for the Family of Muhammad Sihli Al Daihani, undated. This document provided background information on the Detainee but provided little information that was helpful to the Tribunal. It did provide some pictures and contracts of some previous charitable works that the Detainee had arranged to be completed through the Revival of Islamic Heritage Society. In one contract, the Detainee purchased a farm for an orphan village. While interesting, it had little to do with the Detainee's enemy combatant status.

e. The Tribunal also considered the Detainee's sworn testimony, a summarized transcript of which is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he met a man named Faisal when he traveled to Mecca, Saudi Arabia for Hajj. At this time, Faisal talked to the Detainee about the needs of the Afghan people. Faisal encouraged the Detainee to pay for having some wells dug in Afghanistan. Eventually, the Detainee gave Faisal \$2,250 dollars to have five wells dug. The Detainee was encouraged by Faisal to go to Afghanistan to see how the well project was progressing. On 9 September 2001, the Detainee flew to Pakistan where he met with Faisal and a man named Abu Hakeem. They traveled with the Detainee and he arrived in Afghanistan on 10 September 2001. At this time, the Detainee became very ill. The Detainee was hospitalized for 4 to 5 days. After he was released from the hospital, he stated that he was concerned for his safety and only wanted to flee the country. By this time, the borders were closed so he stayed with Faisal and moved from place to place. On or about 15 December 2001, the Detainee then paid someone to smuggle him across the Pakistani border. He had his official passport with him at the time. The Detainee entered a village and the civilians took him to a Pakistani army camp. The Detainee asked to go to his embassy. However, instead of taking him to the embassy, the Detainee was taken to prison and ultimately handed over to the Americans.

The Tribunal relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

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

a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary.

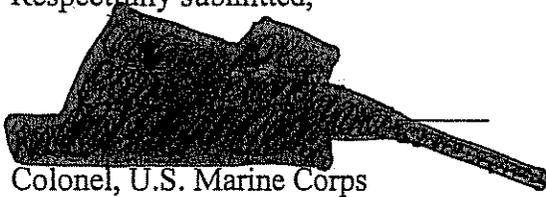
b. The Detainee understood the Tribunal proceedings. He actively participated in the hearing. The Detainee provided an oral statement and answered questions from the Tribunal.

c. The Detainee is properly classified as an enemy combatant and was part of, or supportive of al Qaida, which is engaged in hostilities against the United States and its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large, dark, irregularly shaped redaction covers the signature area, obscuring the name and any handwritten notes.

Colonel, U.S. Marine Corps
Tribunal President

Summarized Unsworn Detainee Statement

Detainee: Yes I will answer the accusations against me.

Tribunal President: Do you want to make your statement or replies to any questions under oath?

Detainee: Whatever makes you comfortable, whatever you want.

Detainee is sworn by the Recorder administering the Muslim oath.

Detainee: They have presented to me thirteen accusations. And because of these accusations they said that I am associated with Al Qaida. Before addressing these accusations, I will give a background as to what happened to me before that. A summary of what my story is. I was on an official holiday from my job. I had taken approximately two months. In the last two weeks, I was in contact with this individual Faisal who is listed here. To visit Afghanistan and see whether the donation I had given, if it was working or not. I wanted to go there in the first place but I was hesitant. So I went there during the end of my vacation. So I would only stay for a week and see the situation in Afghanistan and see the money that I contributed. It was [for] digging wells. When I left Kuwait on the 9th of September, I entered Karachi airport at night. Then I left on a domestic flight to Quetta airport. This is a place on the border with Afghanistan. And afterwards I entered Afghanistan. The morning of Sept 10th I was in Afghanistan. Of course the events happened while I was in Afghanistan. I tried to leave after the events. The borders between Pakistan and Iran were closed after a day. This we heard on the world news. I tried to leave Afghanistan, in September, the same month. I couldn't, the borders were closed. I tried a number of times moving from place to place to get out but I could not. So I had a problem because my holiday was only for two weeks and the holiday ended while I was in Afghanistan. So I called my family and I told them and they got a hold of the ministry and they extended my vacation for 3 additional weeks. But I still could not get out. Until about the 15th of December, I left through the borders and entered Pakistan. I entered a village. Of course I had my official passport and everything. And there were civilians there and they took me to a camp in Pakistan where the Army was. The Pakistanis told me "We will go with you to your embassy." Of course I asked for my embassy. But they took me to a prison and they handed me over to America. That is a summary of my story.

Detainee: Now I will turn to the accusations in front of me. Honestly I didn't even see them during the interrogations. And they never discussed them with me in the interrogations. Because the accused has a right to discuss what he is being accused of. For example I will go through every point and I will answer every point.

3a1. The Detainee worked for the Revival of Islamic Heritage Society.

3a2. The Revival of Islamic Heritage Society appears on the Terrorist Exclusion List of the U.S. Dept of Homeland Security Terrorist Organization Reference Guide.

ISN# 
Enclosure (3)
Page 1 of 12

Detainee: For example the first point. I know the Revival of Islamic Heritage Society; it is an official society from the Kuwaiti government. And it doesn't have any problems inside Kuwait or outside Kuwait. And more than a third of the Kuwaiti people donate to it. Its charity work is all over the world, even in America. But I donated to them; I did not work there. I donated. But I donated to it for some charity work. Maybe my last donation was the end of the nineties, maybe '94. And this Revival of Islamic Heritage Society, donations to it are official, there's paperwork and documentation and it is watched by the Kuwaiti government. My last donation to it was about '94 to '95. But I am surprised that the accusation here is that I worked in it. I did not work in it. I am a government employee. I am also surprised that this society is considered a terrorist organization. Even though I remember that when I left Kuwait, I didn't hear anything about it being a terrorist organization or anything. To summarize, I do not work there. And I donated to it a long time ago about 6 years before the events of September 11th. So if it was classified after September 11th and I was in Afghanistan, so how can I be judged about something like that? Of course I don't know what happened in Kuwait with this organization if it was shut down or what happened to it. Those are the first two points, 1 and 2.

3a3. The Detainee's name appeared on a hard drive recovered from a suspected al Qaida safe house in Islamabad, Pakistan.

Detainee: The third point. This is something also that I was surprised to see when the Personal Representative presented it to me. You say that this is a safe house that is related to Al Qaida and my name is present on the hard drive. I can't say to the American intelligence that you are liars. But I don't know these people and if my name is present on a hard drive, after our detention, we learned that our names are all over the Internet. So if my name is present with any humanitarian organization, or terrorist organization in their computers, or in any place with any intelligence in the world, does that mean that I am a part of them or associated with them? I know that right now, especially we Kuwaitis, our names are all over in computers and places all over. So if it was found in any other place, I'm thought to be part of them or associated with them? It says here that your name was found. It doesn't say anything else, for example was it a letter from me to them, or a passport, document, or anything of mine that they have. I know that the people that they caught after me, they told us that your names and your pictures are present in computers and people have contacted your family members. So I don't know the people who contacted my family or the people who added our names to their lists. So how can I be associated with them just because my name is with them? If my name was present in their computer before my detention, maybe I will be convinced, maybe I will believe, but now after the events our names are all over the world, they are all there. So I know the interrogators did not interrogate me on this issue. I think this is not important, I think if it was important they would have interrogated me. And if this is really true and this really happened and I am associated, I think that the interrogation would have centered a lot around this issue, so they would take information from me about Al Qaida.

I have been here for 2 ½ years and none of these things happened. It's obvious at this point I am innocent of this point. I don't know anything.

3a4. The Detainee voluntarily traveled from Kuwait to Mecca, Saudi Arabia on Hajj in 2000, where he met Faisal (FNU), an employee of the Sanabal Charitable Committee.

Detainee: The fourth point, that I traveled to Mecca, yes, I traveled to Mecca and I met this person in the holy mosque. This mosque has many thousands of people inside. There's a lot of Muslims who know each other within that mosque. News being exchanged back and forth. So yes, I did meet that person inside that mosque and he explained to me the situation in Afghanistan. He told that it [Afghanistan] is in need of donations. I read earlier in the Kuwaiti news that there is a shortage of water in the country. He asked me why don't you Kuwaitis bring wells into that place? So I knew when I went back to Kuwait, we're not allowed to go in to that place in Afghanistan. And that is the reason that made me go to Afghanistan. I wanted to go and see for myself.

3a5. The Sanabal Charitable Committee is considered a fund raising front for the Libyan Islamic Fighting Group.

Detainee: Point number five, I know that the Sanabal Committee is an official committee. From what I can remember its headquarters is in London. That I told to the interrogators. So I don't know if the Sanabal Charity Committee for the Libyan Group, I don't know. This is information yet from intelligence, I am just an employee. I heard this from my Personal Representative. I don't know, if he knows something and I don't know it, how can I be judged on something I don't know? We deal in our normal lives with many people. But we don't know every personal thing about them. And it's hard for a person to know.

3a6. The Libyan Islamic Fighting Group is listed as a terrorist organization in the U.S. Department of Homeland Security Terrorist Organization Reference Guide.

Detainee: The sixth point, that it is listed as a terrorist organization, I don't know this.

3a7. The Detainee admitted to donating approximately 2, 250 dinars to the Sanabal Charitable Committee.

Detainee: Point number seven, yes I donated \$2,250. But here they say dinars. In the interrogations I said dollars. The way you are saying it, if you compared it, it's about three times the amount. Dinars is about three times the amount in dollars. If you calculate it in dinars, it would only be about 750 dinars. And this amount we consider it a small amount. So I don't [know] them well so I only gave them a little bit of money. That was for digging wells. I traveled there to make sure of this.

3a8. The Detainee voluntarily flew from Karachi, Pakistan on 9 September 2001, where he first joined Faisal and Abdul Hakeem.

Detainee: Point number eight. Yes, that happened and I told them so.

3a9. Abdul Hakeem was identified as an employee of the Sanabal Charitable Committee.

3a10. Hakeem was also identified as a major recruiter for the LIFG

Detainee: Number nine and ten. I just knew them as normal people. Whether they were part of anything, I couldn't know this and I didn't read this in the news or anything. Maybe if it was in the news someone would know, but it wasn't there.

3a11. Sometime after 9 September 2001, the Detainee, Faisal and Hakeem traveled to Kandahar, Afghanistan.

Detainee: Number eleven. It's written that sometime after September 9th the Detainee traveled to Kandhar and I told them in the interrogations I traveled before September 9th, so they put it here after the 11th of September. Of course this is a big difference if they say after it means afterwards I went after the events...but this is not correct. Knowing that I told them that I went there before September 11th. They asked me if I would have gone after the events happened and I said no. Big events like this, obviously a person wants to be with his family and his children. I was surprised to see that they wrote after and that is not correct.

3a12. In December 2001, the Detainee failed at attempts to be smuggled across the Iranian border.

Detainee: Number twelve. Of course when you read something like this, looking at this, they say September, October, November, he did not leave, why did he leave in December? Of course he was still comfortable in Afghanistan or accepting of the conditions. But I told them just a few days after the events, I tried to escape by way of Iran. I went there and the borders were closed. Same thing that happened in Pakistan, the borders were also closed. Now here they have written December, of course this is a big difference.

3a13. The Detainee traveled between Kandahar, Kabul, Heart, and Jalalabad, Afghanistan during November/December 2001, before being smuggled into Pakistan, apprehended by Pakistani authorities and turned over to U.S. forces.

Detainee: The last point, number thirteen. Yes that did happen. But not just in November and December, but in September, October, November, and December. When I left and entered Pakistan, the Pakistani authorities did arrest me. I did not see any soldiers or anything like that. I entered into Pakistan, I entered into the Pakistani villages and civilians living there took me to a camp inside Pakistan to the Pakistani army. I asked for the Kuwaiti ambassador. They told me, "We will go with you to that place."

But unfortunately they sold us for money to Pakistan. And that is the truth, you saw that. Of course they pictured us as terrorists and turned us over to the United States. These points that you accused me of and because of what you said I am a member or associated with Al Qaida, and you see now the difference between the things I told them in the interrogations. And honestly I cannot be sure what is there in my classified file, I cannot be sure that it has additional accusations or information that are incorrect. I mean, I wish I could see these accusations and to answer them, like I answered what is written in front of me.

Tribunal President: As we explained before, we don't have the authority to show the Detainee the classified information. We will take your testimony, your statement today and anything else you provide to us today into consideration very strongly. Does this conclude your statement?

Personal Representative wants Detainee to comment on his hospital stay.

Detainee: When I entered Afghanistan, the morning of September 10th, I had eaten something. I became very sick, I had severe diarrhea. So I entered a hospital and stayed there for about four days: four days or five days. Afterwards I wanted to leave and I tried to leave to go back to my country but the borders were closed. They told me the borders were closed. I think based on what I heard here, that communications were being heard, being watched between Afghanistan and the rest of the world, because the methods of communication between Afghanistan and the rest of the world is very limited. I think the American intelligence heard my calls to my family or something and they know this. A lot of people who are detained here, some of them, they provided to them their phone calls to their families from Afghanistan. But it wasn't to their advantage. But [it] works to my advantage, these phone calls, because it was me telling my family I was trying to get out of Afghanistan. That's it.

Personal Representative has no further questions. Recorder has no further questions. Tribunal Members begin questioning.

Tribunal Member comments to Recorder, "Regarding Exhibit R4, regarding the Revival of Islamic Heritage Society, the exhibit indicates the Kuwait office of this organization is not designated as a terrorist organization. The Detainee is from Kuwait; do you have any comment on this?"

Recorder: No

Tribunal Members: Personal Representative, do you have any comment on this?

Personal Representative: No.

Tribunal Member: How long have you been detained here?

Detainee: I was handed over to the American forces 1 January 2002.

Tribunal Member: You mentioned in your statement that the interrogators have never asked you about why it was your name appeared on the computer hard drive.

Detainee: No, I don't remember anyone telling me this.

Tribunal Member: They must have asked you at one point about your associations with al Qaida?

Detainee: No, they didn't mention al Qaida, they didn't ask me anything about al Qaida, they just said tell me your story. I've been here for 2 years, close to 3 years. I'm in four pictures they have shown me. I told them from the beginning, if there is an accusation against me, tell me the accusation, the Revival of Islamic Heritage Society just once did they ask me, "Did you donate to it?" I said yes, I donated to it. Even I mentioned this in the papers. They asked me about Kuwaiti organizations; just did I know of [them] in a general sense. Even the Revival of Islamic Heritage Society, they didn't ask me about it in great detail. Even if they had asked me about it, I don't know anything specific about it. Only they asked me, "How do you present any project to them?" and I told them how I did it. I signed a contract with them and I gave them the money, and then as an official organization, they draw [up] a contract with the organization in the country they are working in. All official business, you know how it is between nations. When the project [is complete] they just bring me the pictures and everything. That's what I told them.

Tribunal Member: Presuming that your name was really found on the computer hard drive, there must be some reason why this is the case.

Detainee: I swear to God, I don't know. I'm sitting here in Cuba. I don't know anything. But the people that you arrested in that house, I'm sure you will ask these people and get information from them. Ask them why they had my name on there. I cannot think of any reason or explanation why my name was on the computer. Other than what I just told you that our names now are everywhere, they're on many computers. The people that you captured in that place, obviously they know why they have my name.

Tribunal Member: As you sit here today, you truly have no idea why the government thinks you are associated with al Qaida?

Detainee: I saw the reasons that they listed and really they are just not true. As we're sitting here, I'm sure you know the political side to this. For example, in Pakistan, when they turned us over to America, they imagined they were people from al Qaida or terrorists. But after 2 ½ years in the interrogations, they haven't found anything. Either of our governments can attest to this. So I think its normal that they would bring us just any accusation like this. That's why I think there are these accusations.

Tribunal Member: In the packet your family submitted, it indicates you are an educated man, apparently with secure employment prior to this time.

Detainee: Yes.

Tribunal Member: You are an auditor with the government of Kuwait.

Detainee: Yes, I'm an auditor.

Tribunal Member: It indicates here that you have been employed on that position since 1991, is that correct?

Detainee: Exactly from '89, my last job from '91.

Tribunal Member: And your course of study, while in University, was in Accountancy and Auditing?

Detainee: Yes.

Tribunal Member: It was in 2001, August, September time frame that you felt the need to go to Afghanistan to check on the status of your donation?

Detainee: I had the idea from a while ago, but work wouldn't allow it. I said I would wait until summer vacation. At that time in the news there was some threats and stuff going on from Bin Laden. So I was hesitant though most of my vacation had passed and I didn't do anything. When I returned Faisal called me and told me these threats and everything and these had been happening for a number of years, it's nothing. I left and the events happened. My vacation would have ended around October 3rd.

Tribunal Member: Did you not know that Afghanistan was in the midst of a civil war and had been for some time?

Detainee: In the Kuwaiti media, some people visited Afghanistan, and they described the situation inside of Afghanistan and the war was in the north of Afghanistan. The situation was better than before; there was peace in most of the cities in Afghanistan. Even this you can verify in the Kuwaiti newspapers, there were newspapers that said this.

Tribunal Member: So you were not concerned for your safety when traveling to Afghanistan?

Detainee: No, I went Afghanistan knowing that the situation was OK. We heard about the Taliban, which was responsible for security in Afghanistan.

Tribunal Member: You said you were an auditor. We often put a bond on our auditors, which means the government checks to make sure you are not a security risk that you are not going to go off with some money. Do they do that in Kuwait?

Detainee: No, we're just accountants, we don't take the money; it's an administrative position. We verify the budgets and so on. We don't take the money. We just look at how the money was spent, was the budget spent correctly or not?

Tribunal Member: So they don't have to do a security check on you to make sure...you have a lot of information about the government when you look at their books.

Detainee: No. its not security, our job doesn't have a lot to do with security. Our reports even go in newspapers.

Tribunal Member: You explained about how you contract a project, and that you had done that previous times, where was this project to be constructed?

Detainee: In this organization, the Revival of Islamic Heritage, it has many branches in Kuwait. In our area there's an office. They have a list of all the countries that are in need of certain projects and they present that list. The list with every project says how much that project costs and how much money is needed. So you say, "I will do this project" for example. For example, a village in Indonesia needs a well or adoption of orphans, or so on. For example, if I say I want to build a mosque in this area: if it costs \$3000, I would sign a contract with the organization and they would sign a contract with an organization in that country that is recognized officially by the government. This organization would be a middleman or a way for me to communicate with the organization in the other country. So for example, I give them \$1000 to start with. After they start, after they finish a phase, and I give them the second installment until it's finished. After it's finished, they offer for me to go see it. We trust the organization and we don't see the need to go see it because the charity says the work is complete.

Tribunal Member: But this particular donation or project you did in Afghanistan, you felt the need to go check on it?

Detainee: There are no Kuwaiti organizations that work inside Afghanistan. That is the reason. The Kuwaiti organizations, you can trust them because they are watched by the government. In Afghanistan, the Kuwaiti organizations said they wouldn't work inside there. [For] Kuwaiti organizations, I would just give them money while I was in Kuwait.

Tribunal Member: This project in Afghanistan that you went to check on, where was it located? Was it in a town?

Detainee: When I entered Afghanistan, the events happened so I wanted to leave, I didn't think of where the project was or anything, I was just trying to leave. You would be surprised, until now, I don't know what happened. I know about the World Trade Center

from the television, what happened there. In Afghanistan, there is no news or anything like that. So for 3 years, we still don't really know what happened, what those events were.

Tribunal Member: Because there were no Kuwaiti organizations that donate money that dealt with Afghanistan, how would the government feel about you donating money to Afghanistan?

Detainee: [The] Kuwaiti government didn't say anything, even the people in the newspaper that went to Afghanistan, it was in the paper, and they didn't say anything. And that official passport is with you right now. It is permissible for me to travel to any country in the world, there's no country I am not allowed to travel to.

Tribunal President: This charitable project in Afghanistan, was it already underway or were you traveling there to get it started?

Detainee: No, I gave the funds in Mecca to dig 5 wells, I considered it be a small project. That was just to start the project and when I went there I would go see it for myself. Like the Kuwaitis who went to Afghanistan and came back and wrote in the newspaper what they had seen.

Tribunal President: So you knew where these projects were located in Afghanistan before traveling?

Detainee: No, I did not.

Tribunal President: Who was going to show you where they were located?

Detainee: The same person I gave the donation to.

Tribunal President: When you left Kuwait and traveled to Pakistan, you traveled alone?

Detainee: Yes, by myself.

Tribunal President: And then from Pakistan to Afghanistan, you had traveling companions?

Detainee: From Karachi to Quetta airport and then I took a car and went to Afghanistan.

Tribunal President: Where in Afghanistan were you going to meet this person you gave the charitable donation to?

Detainee: He greeted me at the airport in Karachi.

Tribunal President: What is his name?

Detainee: Faisal

Tribunal President: That was Faisal?

Detainee: Yes

Tribunal President: Shortly after that, the next day, you got sick and went to the hospital?

Detainee: When we entered Afghanistan, it's true. The next day, it was because of something I ate, I went to the hospital.

Tribunal President: Other than the hospital, where did you stay when you went to Afghanistan?

Detainee; I was moving around; his house was in Kabul. I went to visit Kabul to his house. And then we tried to move from place to place until we went to the Iranian and Pakistani border, it was all movement. I was with him, in his house, his family's house.

Tribunal President: Were he and his family trying to leave as well?

Detainee: Honestly, his family I don't know, he had left his family at that time, his family was in Kabul at the time I was leaving. I went to Kabul in November approximately.

Tribunal President: When you were captured who else was with you when you were captured?

Detainee: A group of people.

Tribunal President: Was Faisal with you?

Detainee: No, I left him in Afghanistan.

Tribunal President: Was Abdul Hakeem with you?

Detainee: No, people I didn't know were with me.

Tribunal President: How many?

Detainee: A group maybe nine or eight.

Tribunal President: Did you have to pay someone to smuggle you in or attempt to smuggle you in Pakistan?

Detainee: Yes, of course. Of course that's necessary.

Tribunal Member: In reviewing the packet your family provided us, we noticed that you received acknowledgements from the Islamic Heritage Society and thanksgiving for your donation, as well as an example of an actual contract itself. On one occasion, it is indicated that the farm you made a donation for was located 70 miles south of the Indonesian capital. Did you not receive a similar acknowledgment for the contract that you executed relating to your donation for Afghanistan?

Detainee: The project in Afghanistan was a very small project. It was about \$450 and five wells. Very small. That's one thing; another thing is the way of this Islamic Heritage Society. It is an official way and it differs from other associations. But this Sanabal Committee, I did not do any official business with them, so I don't know if they work the same way as the Heritage Society with contracts and stuff. I did not continue with them. I would only go see these projects if they really did happen, whether it was true or not. But this all never happened. The events happened and I couldn't do anything.

Tribunal Member: Were you concerned your donation was not being properly used?

Detainee: No, I just wanted to get out. And they felt that they had put me in a compromising situation, until someone comes and sees this and something happens while we were there, the situation didn't allow us to go and say, let's see this.

Tribunal Member: Is this the first time you ever traveled to Afghanistan?

Detainee: Yes.

Tribunal Member: It seems like quite an ordeal to go all the way from Kuwait to Afghanistan for such a small project of \$450.

Detainee: I looked at this as a start to many more projects. This was just for this project that I went to Afghanistan to see if the situation was good. If the committee was good, if I could do more charity work there. Like the Kuwaitis have done there before.

Tribunal President: Mohammed Fenaitel Mohammed Al Daihani, do you have any other information that you would like to present to this tribunal today?

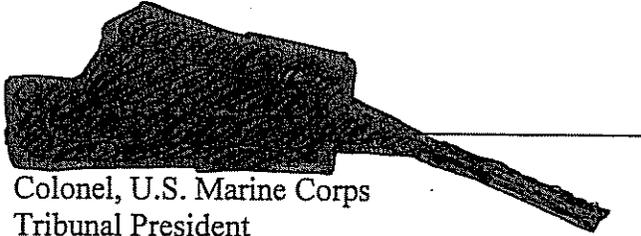
Detainee: No.

Personal Representative and Recorder have no additional witnesses or evidence.

Tribunal President: All unclassified evidence having been provided to this tribunal, this concludes the open session of the tribunal.

AUTHENTICATION

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

A large, dark, irregularly shaped redaction covers the signature area. A thin horizontal line extends from the right side of the redaction.

Colonel, U.S. Marine Corps
Tribunal President

DETAINEE ELECTION FORM

Date: 25 Sep 04

Start Time: 0755

End Time: 0925

ISN#: [REDACTED]

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

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee will participate

Detainee has no lawyer/legal rep

Denies all allegations

No witness request

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (22 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL DAIHANI, Mohammed Fenaitel Mohamed.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he supported forces engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is associated with al Qaida and provided support to forces engaged in hostilities against the United States or its coalition partners:
 1. The detainee worked for the Revival of Islamic Heritage Society.
 2. The Revival of Islamic Heritage Society appears on the Terrorist Exclusion List of the U.S. Dept. of Homeland Security Terrorist Organization Reference Guide.
 3. The detainee's name appeared on a hard drive recovered from a suspected al Qaida safehouse in Islamabad, Pakistan.
 4. The detainee voluntarily traveled from Kuwait to Mecca, Saudi Arabia on Hajj in 2000, where he met Faisal (LNU), an employee of the Sanabal Charitable Committee.
 5. The Sanabal Charitable Committee is considered a fund raising front for the Libyan Islamic Fighting Group.
 6. The Libyan Islamic Fighting Group is listed as a terrorist organization in the U.S. Dept. of Homeland Security Terrorist Organization Reference Guide.

UNCLASSIFIED

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Exhibit RI

UNCLASSIFIED

7. The detainee admitted to donating approximately 2,250 dinars to the Sanabal Charitable Committee.
 8. The detainee voluntarily flew from Kuwait to Karachi, Pakistan on 9 September 2001, where he joined Faisal and Abdul Hakeem.
 9. Abdul Hakeem was identified as an employee of the Sanabal Charitable Committee.
 10. Hakeem was also identified as a major recruiter for the LIFG.
 11. Sometime after 9 September 2001, the detainee, Faisal and Hakeem traveled to Kandahar, Afghanistan.
 12. In December 2001, the detainee failed at attempts to be smuggled across the Iranian boarder.
 13. The detainee traveled between Kandahar, Kabul, Herat and Jalalabad, Afghanistan during November/December 2001, before being smuggled into Pakistan, apprehended by Pakistani authorities and turned over to US forces.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Memorandum



To : Department of Defense Date 09/14/2004
 Office of Administrative Review
 for Detained Enemy Combatants
 Col. David Taylor, OIC, CSRT

From : FBI GTMO
 Counterterrorism Division
 OSC [REDACTED] 11/14/04

Subject : REQUEST FOR REDACTION OF
 NATIONAL SECURITY INFORMATION
 [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 05/14/2002

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

²See Executive Order 12958

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/14/2004

If you need additional assistance, please contact On
Scene Commander [REDACTED]
[REDACTED] or Intelligence Analyst
[REDACTED]

UNCLASSIFIED

PO

R3

SHEARMAN & STERLING

Washington, D.C.
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2604
Telephone: (202) 508-8000

FAX NUMBERS

(202) 508-8100
(202) 508-8101
(202) 508-8102

2002 JUL -8 P 5:30

FAX COVER SHEET

July 8, 2002

Reference No. 33472/2

Fax Recipient(s)				
Name	Firm	Location	Fax Number	Office Phone
Robert Okun	Assistant U.S. Attorney	Washington, D.C.	202-514-8784	202-514-7282

From

Name: Katharine Brown
Telephone: 202-654-4050
Fax Number: 202-508-8100

Pages transmitted (including cover sheet): 20

Comments:

~~Please find a copy of the Amended Complaint filed with the Court today.~~

Please call with any questions.

-Katharine Brown
Legal Assistant

Confidentiality Note: The information transmitted in this facsimile message is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity named above. If the recipient is a client, this message may also be for the purpose of rendering legal advice and thereby privileged. If the reader of this message is not the intended recipient, you are hereby notified that any retention, dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above via the mail service (we will reimburse postage). Thank you.

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Exhibit R3

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FAWZI KHALID ABDULLAH FAHAD AL ODAH)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

KHALED A. F. AL ODAH)
Next Friend of Fawzi Khalid Abdullah Fahad)
Al Odah)
Kuwait)

OMAR RAJAB AMIN,)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MOHAMMAD R. M. R. AMEEN)
Next Friend of Omar Rajab Amin)
Kuwait)

No. CV 02-0828 (CKK)

NASSER NIJER NASER AL MUTAIRI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

NAYEF N.N.B.J. AL MUTAIRI)
Next Friend of Nasser Nijer Naser Al Mutairi)
Kuwait)

KHALID ABDULLAH MISHAL AL MUTAIRI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MESHAL A.M. TH AL MUTAIRI)
Next Friend of Khalid Abdullah Mishal)
Al Mutairi)
Kuwait)

ABDULLAH KAMAL ABDULLAH KAMAL)
AL KANDARI)
Detainee, Camp X-Ray/Camp Delta)
Guantanamo Bay Naval Base)
Guantanamo Bay, Cuba)

MANSOUR K.A. KAMEL)
 Next Friend of Abdullah Kamal Abdullah)
 Kamal Al Kandari)
 Kuwait)
)
 ABDULAZIZ SAYER OWAIN AL SHAMMARI)
 Detainee, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)
)
 SAYER O.Z. AL SHAMMARI)
 Next Friend of Abdulazziz Sayer Owain)
 Al-Shammari)
 Kuwait)
)
 -----)
 ABDULLAH SALEH ALI AL AJMI)
 Detainee, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)
)
 -----)
 MESFER SALEH ALI AL AJMI)
 Next Friend of Abdullah Safeh Ali Al Ajmi)
 Kuwait)
)
 MOHAMMED FUNAITEL AL DIHANI)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)
)
 -----)
 MUBARAK F.S.M. AL DAIHANI)
 Next Friend of Mohammed Funaitel Al Dihani)
 Kuwait)
)
 FAYIZ MOHAMMED AHMED AL KANDARI)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)
)
 MOHAMMAD A.J.M.H. AL KANDARI)
 Next Friend of Fayiz Mohammed Ahmed)
 Al Kandari)
 Kuwait)
)
 FWAD MAHMOUD AL RABIAH)
 Detainee, Camp X-Ray/Camp Delta)
 Address Unknown)
)

MONZER M.H.A. AL RABIEAH)
Next Friend of Fwad Mahmoud Al Rabiah)
Kuwait)

ADIL ZAMIL ABDULL MOHSSIN AL ZAMIL)
Detainee, Camp X-Ray/Camp Delta)
Address Unknown)

WALID Z.A. AL ZAMEL)
Next Friend of Adil Zamil Abdull Mohssin)
Al Zamil)
Kuwait)

SAAD MADAI SAAD HAWASH AL-AZMI)
Detainee, Camp X-Ray/Camp Delta)
Address Unknown)

HAMAD MADAI SAAD)
Next Friend of Saad Madai Saad Hawash)
Al Azmi)
Kuwai)

Plaintiffs,

v.

UNITED STATES OF AMERICA,

GEORGE W. BUSH,)
President of the United States)
The White House)
1600 Pennsylvania Avenue)
Washington, D.C. 20500)

DONALD H. RUMSFELD,)
Secretary of Defense)
Department of Defense)
1000 Defense Pentagon)
Washington, D.C. 20301-1000)

GENERAL RICHARD B. MYERS)
Chairman, Joint Chiefs of Staff)
9999 Joint Chiefs of Staff Pentagon)
Washington, D.C. 20318-9999)

BRIGADIER GENERAL RICK BACCUS,)
 Commander, Joint Task Force-160)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba)
)
 COLONEL TERRY CARRICO)
 Commander, Camp X-Ray/Camp Delta)
 Guantanamo Bay Naval Base)
 Guantanamo Bay, Cuba,)
)
 Defendants.)
)

AMENDED COMPLAINT

This is a civil action brought by 12 Kuwaiti nationals (the "Kuwaiti Detainees") who are being detained in the custody of the United States at the Guantanamo Bay Naval Base, Guantanamo Bay, Cuba ("Guantanamo"), and by 12 of their family members (the "Family Members") who are also Kuwaiti nationals and who speak on their behalf. The Kuwaiti Detainees have been held virtually *incommunicado* since as early as January 11, 2002. Although the Secretary of Defense was authorized by the President in the President's Military Order of November 13, 2001, to detain non-citizens if the President has made a written determination that there is reason to believe they are or were members of al Qaida, or engaged in terrorist acts against the United States, the President has made no such determination with respect to the Kuwaiti Detainees.

Plaintiffs do not seek release from confinement in this Amended Complaint. Rather, they seek modest but essential relief while they are being detained and interrogated by defendants. They seek the right to (1) meet with their families, (2) be informed of any charges against them, (3) be able to consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal. These are fundamental rights of due process guaranteed to detainees under the Fifth Amendment to the Constitution and customary international law. The grant of

this limited relief will not interfere in any way with the ability of the United States to conduct its essential war against terrorism or to determine who was responsible for the horrible acts of September 11, 2001, and to bring those individuals to justice.

**I.
JURISDICTION AND VENUE**

1. The Court has subject matter jurisdiction of this civil action under 28 U.S.C. §§ 1331, 1350, and 1361. A cause of action exists under the Constitution, 5 U.S.C. § 702, 28 U.S.C. §§ 1350, 2241-2243, and the laws of nations and treaties of the United States. To the extent immunity to this suit may be asserted by defendants, that immunity is waived by 5 U.S.C. § 702. The Court is authorized to grant the relief requested by plaintiffs under 5 U.S.C. § 706, and 28 U.S.C. §§ 1350, 1361, 1651, 2201, 2202, and 2241-2243.

2. Venue lies in this Court under 28 U.S.C. §§ 1391(b), (e).

**II.
PARTIES**

3. Plaintiffs Fawzi Khalid Abdullah Fahad Al Odah, Omar Rajab Amin, Nasser Nijer Naser Al Mutairi, Khalid Abdullah Mishal Al Mutairi, Abdullah Kamal Abdullah Kamal Al Kandari, Abdulaziz Sayer Owain Al Shammari, Abdullah Saleh Ali Al Ajmi, Mohammed Funaitel Al Dihani, Fayiz Mohammed Ahmed Al Kandari, Fwad Mahmoud Al Rabiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Alzmi (the "Kuwaiti Detainees") are Kuwaiti nationals who are detained under the custody of the United States at Guantanamo.

4. Plaintiff Khaled A.F. Al Odah is a Kuwaiti national and the father of plaintiff Fawzi Khalid Abdullah Fahad Al Odah; plaintiff Mohammad R.M.R. Ameen is a Kuwaiti national and the brother of plaintiff Omar Rajab Amin; plaintiff Nayef N.N.B.J. Al Mutairi is a Kuwaiti national and the brother of plaintiff Nasser Nijer Naser Al Mutairi; plaintiff Meshal A.M.TH Al

Mutairi is a Kuwaiti national and the brother of plaintiff Khalid Abdullah Mishal Al Mutairi; plaintiff Mansour K.A. Kamel is a Kuwaiti national and the brother of plaintiff Abdullah Kamal Abdullah Kamal Al Kandari; plaintiff Sayer O.Z. Al Shammari is a Kuwaiti national and the father of plaintiff Abdulaziz Sayer Owain Al Shammari; plaintiff Mesfer Saleh Ali Al Ajmi is a Kuwaiti national and the brother of Abdullah Saleh Ali Al Ajmi; plaintiff Mubarak F.S.M. Al Daihani is a Kuwaiti national and the brother of plaintiff Mohammed Funaitel Al Dihani; plaintiff Mohammad A.J.M.H. Al Kandari is a Kuwaiti national and the father of plaintiff Fayiz Mohammed Ahmed Al Kandari; plaintiff Monzer M.H.A. Al Rabieah is a Kuwaiti national and the brother of plaintiff Fwad Mahmoud Al Rabiah; plaintiff Walid Z.A. Al Zamel is a Kuwaiti national and the brother of plaintiff Adil Zamil Abdull Mohssin Al Zamil, and plaintiff Hamad Madai Saad is a Kuwaiti national and the brother of plaintiff Saad Madai Saad Al-Azmi. The plaintiffs other than the Kuwaiti Detainees are referred to as the Family Members.

5. Defendant George W. Bush is the President of the United States; defendant Donald H. Rumsfeld is the Secretary of Defense; defendant General Richard B. Myers is the Chairman of the Joint Chiefs of Staff; defendant Brigadier General Rick Baccus is the Commander of Joint Task Force-160, which is responsible for the detention operation at Guantanamo; defendant Colonel Terry Carrico is the Commandant of Camp X-Ray/ Camp Delta at Guantanamo and the custodian of the detainees at Guantanamo. They are sued in their official and individual capacities. The Executive Branch of the United States Government, designated as the United States of America, is also a defendant.

III.
FACTS

The Terrorist Attacks of September 11, 2001

6. On September 11, 2001, terrorists struck the United States, hijacking four airplanes and flying three of them into the twin towers of the World Trade Center in New York City and the Pentagon, killing thousands of innocent people. Soon after this terrorist attack, the United States Government identified the terrorists as members of the al Qaida terrorist organization.

7. In the wake of the terrorist attack of September 11, 2001, President Bush launched a military campaign against al Qaida headquartered in Afghanistan and supported by the Taliban Regime. On September 18, 2001, Congress adopted a Joint Resolution that 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, Pub. L. No. 107-40, 115 Stat. 224. The United States' military campaign against al Qaida and the Taliban is being conducted in cooperation with other nations, including Pakistan, as well as a coalition of Afghani groups known as the Northern Alliance, which opposes the Taliban.

8. On information and belief, some members and supporters of al Qaida and the Taliban have attempted to hide from the United States and its allies during the military campaign in dispersed areas of Afghanistan and Pakistan. On information and belief, the United States and its allies have encouraged local authorities in Afghanistan and Pakistan to assist in the location, identification, and apprehension of these al Qaida and Taliban members and supporters.

President Bush's Military Order of November 13, 2001

9. On November 13, 2001, President Bush issued the Military Order of November 13, 2001, entitled "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism" (the "Military Order"). 66 Fed. Reg. 57,831 (Nov. 16, 2001).

10. Section 1 of the Military Order recites "Findings" about the terrorist attacks of September 11, 2001, including a finding that "it is necessary for individuals subject to this order * * * to be detained."

11. In section 2(a) of the Military Order, President Bush defines the term "individual subject to this order" to mean "any individual who is not a United States citizen with respect to whom I determine from time to time in writing that":

(1) there is reason to believe that such individual, at the relevant times,

(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) or (ii) of subsection 2(a)(1) of this order, and

(2) it is in the interest of the United States that such individual be subject to this order.

12. Section 2(b) of the Military Order declares that "[i]t is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4."

13. Section 3 of the Military Order provides that "[a]ny individual subject to this order shall be (a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States."

Seizure of the 12 Kuwaiti Detainees

14. On information and belief, the Family Members allege that the Kuwaiti Detainees were in Afghanistan or Pakistan, some before and some after September 11, 2001, as volunteers for charitable purposes to provide humanitarian aid to the people of those countries, such as assisting in developing potable water sources, working in hospitals, and arranging for the sponsorship of orphans. There is a long tradition of such volunteer service by Kuwaiti nationals in countries of crisis worldwide, including Afghanistan and Pakistan. Such volunteer service is encouraged by the Kuwaiti Government and Kuwaiti employers. One aspect of the Kuwaiti Government support of volunteer service is by continuing to pay the salaries of its Kuwaiti employees while they are engaged in such volunteer service abroad.

15. On information and belief, the Family Members allege that none of the Kuwaiti Detainees is or ever has been a combatant or belligerent against the United States, or a member or supporter of al Qaida or the Taliban, or a member of any terrorist organization, and that none of the Kuwaiti Detainees has ever engaged in or supported any terrorist or hostile act against the United States. None of the Family Members has ever engaged in or supported any terrorist or hostile act against the United States, and on information and belief the Family Members allege that no other member of their families has ever engaged in or supported any terrorist or hostile act against the United States.

16. On information and belief, the Family Members alleged that the Kuwaiti Detainees were seized against their will in Afghanistan or Pakistan after September 11, 2001, by local

villagers seeking promised bounties or other financial rewards, and that, subsequently, they were taken into custody by the United States. Several of the families of the Kuwaiti Detainees received letters from several of the Kuwaiti Detainees after they were taken into custody by the United States expressing the sentiment: "Thank God I am now with the Americans," and a confidence that they would soon be able to return home to their families.

United States' Detention of the Kuwaiti Detainees

17. President Bush has not determined in writing that there is reason to believe that, at the relevant times, any of the Kuwaiti Detainees is or was a member of the organization known as al Qaida, or has engaged in any of the acts described in section 2 of the Military Order, or that it is in the interest of the United States that any of the Kuwaiti Detainees be subject to the Military Order.

18. None of the other defendants has stated publicly or informed plaintiffs why or on what basis the Kuwaiti Detainees are being detained. None of the defendants has stated publicly or informed plaintiffs that the Kuwaiti Detainees are enemy combatants or belligerents against the United States.

19. William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, sent a letter dated March 25, 2002, to the Ministry of Foreign Affairs of Kuwait, stating that plaintiff Fawzi Khalid Abdullah Fahad Al Odah has been in detention under United States custody at Guantanamo since February 13, 2002; plaintiff Omar Rajab Amin has been in detention under United States custody at Guantanamo since January 11, 2002; plaintiff Nasser Nijer Naser Al Mutairi has been in detention under United States custody at Guantanamo since February 7, 2002; plaintiff Khalid Abdullah Mishal Al Mutairi has been in detention under United States custody at Guantanamo since February 9, 2002; plaintiff Abdullah Kamal

Abdullah Kamal Al Kandari has been in detention under United States custody at Guantanamo since February 11, 2002; and plaintiff Abdulaziz Sayer Owain Al Shammari has been in detention under United States custody at Guantanamo since February 9, 2002.

20. The family of plaintiff Abdullah Saleh Ali Al Ajmi received a letter from him dated February 28, 2002, mailed from Guantanamo on March 1, 2002, which indicates that he is in detention under United States custody at Guantanamo.

21. On May 6, 2002, a Kuwaiti attorney representing the Family Members was informed by the Government of Kuwait that it received written confirmation from the United States Government that plaintiffs Fayiz Mohammed Ahmend Al Kandari, Fwad Mahmoud Al Rabiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Al-Azmi are in detention under custody of the United States at Guantanamo. No confirmation has been received to date concerning plaintiff Mohammed Funaitel Al Dihani.

22. On April 3, 2002, Abdul Rahman R. Al-Haroun, a Kuwaiti attorney retained by the families of the Kuwaiti Detainees, received from the Government of Kuwait a copy of the letter referred to in paragraph 19, from William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, to the Ministry of Foreign Affairs of Kuwait.

23. On April 6, 2002, Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah, representing the families of the Kuwaiti Detainees, met at the United States Embassy in Kuwait with Andrew Morrison, First Secretary and Head of the Political Section of the Embassy, and Yousef Khalil, a political specialist at the Embassy. Plaintiff Khaled A.F. Al Odah had previously submitted to the United States Embassy a list containing the names of ten of the 12 plaintiff Kuwaiti Detainees, seeking information about them. At the time of the meeting, plaintiff Khaled A.F. Al

Odah did not have information that plaintiffs Adil Zamil Abdull Mohssin Al Zamil and Saad Madai Saad Al-Azmi were in the custody of the United States.

24. During the meeting of April 6, Mr. Al-Haroun and plaintiff Khaled A.F. Al-Odah asked Mr. Morrison and Mr. Khalil to provide them with information about the ten Kuwaiti Detainees on the list previously submitted by plaintiff Khaled A.F. Al Odah. Specifically, they asked Mr. Morrison and Mr. Khalil to confirm that these ten Kuwaiti Detainees were in the custody of the United States; to identify the location of their detention; to provide their families with the opportunity to contact and meet with them; to advise whether any of them were being accused of wrongdoing, and if not, why they were not being released; and, if any of the ten were being investigated, to grant them access to counsel of their choice and conditional release during the pendency of the investigation.

25. At the meeting of April 6, Mr. Morrison and Mr. Khalil did not provide Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah with any information about the ten plaintiff Kuwaiti Detainees on the list submitted by plaintiff Khaled A.F. Al Odah, and would neither confirm nor deny that any of those Kuwaiti Detainees were in the custody of the United States. However, Mr. Morrison said he would take Mr. Al-Haroun's and plaintiff Khaled A.F. Al Odah's requests under consideration, consult with others, and provide them with a reply.

26. Mr. Al-Haroun and plaintiff Khaled A.F Al Odah have not received any reply to their requests from Mr. Morrison or Mr. Khalil or from anyone else at the United States Embassy in Kuwait or in the United States Government.

27. Counsel for plaintiffs have been told by the Defense Department that, to maintain "force protection," the Defense Department has adopted a policy not to disclose the identities of, or other information about, specific individuals detained by the United States to their families or

representatives. Counsel for plaintiffs further have been told by the Defense Department that the United States is making such disclosures only to the governments of the countries in which those individuals are nationals.

28. The Family Members have not been permitted to meet with the Kuwaiti Detainees.

29. On information and belief, the Family Members allege that the Kuwaiti Detainees have not been informed of the charges, if any against them; they have not been granted the right to designate or consult with counsel of their choice; and they have not been granted access to the courts or any other impartial tribunal during their detention.

Guantanamo

30. ~~Under the Lease of Lands for Coaling and Naval Stations, Feb. 16-23, 1903, U.S.-~~

Cuba, T.S. No. 418, 6 Bevans 1113, as extended by the Treaty on Relations with Cuba, May 29, 1934, U.S.-Cuba, art. III, 48 Stat. 1682, 1683, T.S. No. 866, although the United States recognizes the sovereignty of Cuba over Guantanamo, "the Republic of Cuba consents that * * * the United States shall exercise complete jurisdiction and control over and within" Guantanamo during the lease. The United States has occupied Guantanamo Bay since 1903, and has repeatedly declared its intention to remain there indefinitely.

31. According to the Office of Legal Counsel of the Department of Justice, "the Guantanamo Base would constitute land 'acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof.' Accordingly, it would appear to come within [18 U.S.C.] § 7's definition of land 'within the special maritime and territorial jurisdiction of the United States.'" 6 Op. O.L.C. 236, 1982 OLC LEXIS 58 (Mar. 29, 1982). Consistent with this opinion, criminal prosecutions under Title 18 of the United States Code of civilians and aliens who commit offenses at Guantanamo are triable exclusively in mainland United States courts.

See, e.g., United States v. Chambers, 940 F.2d 653 (4th Cir. 1991), unpublished opinion available at No. 90-5664, 1991 WL 137232 (July 29, 1991); *United States v. Lee*, 906 F.2d 117, 117 n. 1 (4th Cir. 1990); *United States v. Rogers*, 388 F. Supp. 298, 301 (E.D. Va. 1975). *See also* 25 Op. Atty. Gen. 157 (1904) (Guantanamo Naval Station "is practically a part of the Government of the United States").

32. The United States Navy has described Guantanamo as "a Naval reservation which, for all practical purposes, is American territory. Under the [lease] agreements, the United States has for approximately [ninety] years exercised the essential elements of sovereignty over this territory, without actually owning it. Unless we abandon the area or agree to a modification of the terms of our occupancy, we can continue in the present status as long as we like. [According to the United States p]ersons on the reservation are amenable only to United States legislative enactments." *See The History of Guantanamo Bay: An Online Edition* (1964), available at <http://www.nsgtmo.navy.mil/history.htm>.

Defendants' Statements About Detention at Guantanamo

33. According to a "Fact Sheet" issued by the White House on February 7, 2002, President Bush has determined that the principles of the Third Geneva Convention of 1949 apply to the treatment of the "Taliban detainees" at Guantanamo, but not to the "al Qaida detainees" at Guantanamo. However, the President has determined that neither the "Taliban detainees" nor the "al Qaida detainees" will be accorded prisoner-of-war status.

34. Defendants have not publicly disclosed or informed plaintiffs whether any of the Kuwaiti Detainees are "Taliban detainees" or "al Qaida detainees," as those terms are used in the White House "Fact Sheet" of February 7, 2002.

35. In a radio interview on February 27, 2002, Secretary Rumsfeld said with respect to the approximately 300 detainees at Guantanamo: "[T]hey have all now, except for one or two, been questioned and interrogated, looking for intelligence information so that we could stop other terrorist threats, people from attacking our country and our friends and allies and our deployed forces," and that "[w]e're now starting the process of doing a series of interrogations that involve law enforcement. That is to say to determine exactly what these individuals have done. Not what they know of an intelligence standpoint, but what they've done from a law enforcement standpoint. That process is underway." United States Department of Defense

News Transcript, Rumsfeld Interview with KTSP-ABC, St. Paul, Minnesota, February 27, 2002, p. 2. Secretary Rumsfeld continued that the detainees "will fall into four or five baskets. One is if we find that someone's an innocent and shouldn't have been brought there, why they would be released." *Id*

36. In a Pentagon news briefing on March 28, 2002, Secretary Rumsfeld said with respect to the detainees at Guantanamo: "The fact is that the first people we brought down were in fact the hardest of the hard core, because we wanted to get them out of the Kandahar and Bagram facilities. Now we have brought down a large portion of the people, and now it is [a] mix, and they vary. They run pretty much across the spectrum. It seems to me that that being the case one can expect that what will happen will be exactly what I said: that some may be transferred to other countries, some may be released, some may be held for the duration, some may be tried in one or more of the various mechanisms that are available -- the United States criminal justice system, military commissions, or the Uniform Code of Military Justice. * * * I think the better way to look at it is not at that group of people in the aggregate, but as I've

indicated, individually." United States Department of Defense, News Transcript, DoD News Briefing – Secretary Rumsfeld and Gen. Myers, March 28, 2002, pp. 3, 4.

**IV.
CLAIMS FOR RELIEF**

Based on the allegations in paragraphs 1 through 36, plaintiffs claim:

First Claim: Denial of Due Process – Violation of the Fifth Amendment

37. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have denied and are denying the Kuwaiti Detainees fundamental due process, in violation of the Due Process Clause of the Fifth Amendment to the Constitution.

Second Claim: Tortious Conduct Within the Meaning of the Alien Tort Claims Act

38. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary detention, which is tortious conduct in violation of the law of nations and a treaty of the United States, and actionable under the Alien Tort Claims Act, 28 U.S.C. § 1350.

Third Claim: Arbitrary and Unlawful Conduct --Violation of APA

39. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even

during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary, unlawful, and unconstitutional conduct, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 555, 702, 706.

V.
PRAYER FOR RELIEF

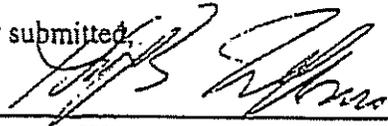
Based on the allegations in paragraphs 1 through 39, plaintiffs pray for the following relief:

40. A preliminary and permanent injunction, enjoining defendants from refusing to permit the Kuwaiti Detainees at Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements.

41. A declaration that defendants' refusal to permit the Kuwaiti Detainees at Guantanamo to 1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements, is a violation of the Due Process Clause of the Fifth Amendment to the Constitution, tortious conduct under the Alien Tort Claims Act, and arbitrary, unlawful, and unconstitutional conduct in violation of the Administrative Procedure Act.

42. Reasonable attorneys' fees and the costs of this action, and such other and further relief as the Court may deem necessary or appropriate.

Respectfully submitted,



Thomas B. Wilner (D.C. Bar #173807)
Neil H. Koslowe (D.C. Bar #361792)
Kristine A. Huskey (D.C. Bar #462979)
Heather Lamberg Kafele (D.C. Bar# 473584)

SHEARMAN & STERLING
801 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 508-8000
Facsimile: (202) 508-8100

Attorneys for Plaintiffs

Dated: July 8, 2002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

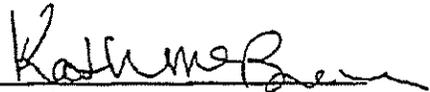
FAWZI KHALID ABDULLAH FAHAD AL ODAH,)
et al.,)
)
 Plaintiffs,)
)
 v.)
)
 UNITED STATES OF AMERICA, et al.,)
)
 Defendants.)

No. CV 02-0828 (CKK)

CERTIFICATE OF SERVICE

I certify that today, July 8, 2002, I served Plaintiffs' Amended Complaint upon
 defendants by causing a copy to be mailed by first-class mail, postage prepaid, and by causing a
 copy to be transmitted by facsimile, to defendants' counsel of record:

Roscoe C. Howard, Jr.
 United States Attorney
 Robert Okun
 Assistant United States Attorney
 Room 11-858
 555 Fourth Street, N.W.
 Washington, D.C. 20530


 Katherine Brown
 Legal Assistant



A-2
A-6

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

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

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

**Terrorist Organization
Reference Guide**

January 2004

Page 1 of 7

Exhibit 5 634

UNCLASSIFIED

including US citizens. Several of the arrested militants have reportedly undergone military training in Afghanistan, and some fought with the Afghan mujahidin during the war against the former Soviet Union. Others are alleged to have ties to Islamic extremist organizations in Indonesia and the Philippines.

Strength

Malaysian police assess the KMM to have 70 to 80 members. The Malaysian police continued to investigate more than 200 suspected Muslim militants throughout 2002.

Location/Area of Operation

The KMM is reported to have networks in the Malaysian states of Perak, Johor, Kedah, Selangor, Terengganu, and Kelantan. They also operate in Wilayah Persukutuan, the federal territory comprising Kuala Lumpur. According to press reports, the KMM has ties to radical Indonesian Islamic groups and has sent members to Ambon, Indonesia, to fight against Christians.

External Aid

Largely unknown, probably self-financing.

59. Libyan Islamic Fighting Group

a.k.a. Al-Jam'a al-isiamiyyah al-Muqatilah, Fighting Islamic Group, Libyan Fighting Group, Libyan Islamic Group

Description

Emerged in 1995 among Libyans who had fought against Soviet forces in Afghanistan. Declared the government of Libyan leader Muammar Qadhafi un-Islamic and pledged to overthrow it. Some members maintain a strictly anti-Qadhafi focus and organize against Libyan Government interests, but others are aligned with Usama Bin Ladin's al-Qaeda organization or are active in the international mujahidin network. The group was designated for asset freeze under E.O.13224 and UNSCR 1333 in September 2001.

Activities

Claimed responsibility for a failed assassination attempt against Qadhafi in 1996 and engaged Libyan security forces in armed clashes during the mid-to-late 1990s. Continues to target Libyan interests and may engage in sporadic clashes with Libyan security forces.

Strength

Not known but probably has several hundred active members or supporters.

Terrorist Exclusion List

Terrorist Exclusion List³

Section 411 of the USA PATRIOT ACT of 2001 (8 U.S.C. § 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the "Terrorist Exclusion List (TEL)" authority. A TEL designation bolsters homeland security efforts by facilitating the USG's ability to exclude aliens associated with entities on the TEL from entering the United States.

Designation Criteria

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

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

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

Designation Process

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

Effects of Designation

Legal Ramifications

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

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

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

Other Effects

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

Background

On December 5th, 2001 Secretary of State Colin Powell, in consultation with the Attorney General designated the following organizations, thereby placing them on the Terrorist Exclusion List:

Terrorist Exclusion List Designees

- Al-Ittihad al-Islami (AIAI)
- Al-Wafa al-Igatha al-Islamia

- Asbat al-Ansar
- Darkazanli Company
- Salafist Group for Call and Combat (GSPC)
- Islamic Army of Aden
- Libyan Islamic Fighting Group
- Makhtab al-Khidmat
- Al-Hamati Sweets Bakeries
- Al-Nur Honey Center
- Al-Rashid Trust
- Al-Shifa Honey Press for Industry and Commerce
- Jaysh-e-Mohammed
- Jamiat al-Ta'awun al-Islamiyya
- Alex Boncayao Brigade (ABB)
- Army for the Liberation of Rwanda (ALIR) -- AKA: Interahamwe, Former Armed Forces (EX-FAR)
- First of October Antifascist Resistance Group (GRAPO) -- AKA: Grupo de Resistencia Anti-Fascista Premero De Octubre
- Lashkar-e-Tayyiba (LT) -- AKA: Army of the Righteous
- Continuity Irish Republican Army (CIRA) -- AKA: Continuity Army Council
- Orange Volunteers (OV)
- Red Hand Defenders (RHD)
- New People's Army (NPA)
- People Against Gangsterism and Drugs (PAGAD)
- Revolutionary United Front (RUF)
- Al-Ma'unah
- Jayshullah
- Black Star
- Anarchist Faction for Overthrow
- Red Brigades-Combatant Communist Party (BR-PCC)
- Revolutionary Proletarian Nucleus
- Turkish Hizballah
- Jerusalem Warriors
- Islamic Renewal and Reform Organization
- The Pentagon Gang
- Japanese Red Army (JRA)
- Jamiat ul-Mujahideen (JUM)
- Harakat ul Jihad i Islami (HUJI)
- The Allied Democratic Forces (ADF)
- The Lord's Resistance Army (LRA)

Designated on February 18, 2003

- Al Taqwa Trade, Property and Industry Company Ltd. (a.k.a. Al Taqwa Trade, Property and Industry; a.k.a. Al Taqwa Trade, Property and Industry Establishment; f.k.a. Himmat Establishment)
- Bank Al Taqwa Ltd. (a.k.a. Al Taqwa Bank; a.k.a. Bank Al Taqwa)
- Nada Management Organization (a.k.a. Al Taqwa Management Organization SA)
- Youssef M. Nada & Co. Gesellschaft M.B.H.
- Ummah Tameer E-Nau (UTN) (a.k.a. Foundation for Construction; a.k.a. Nation Building; a.k.a. Reconstruction Foundation; a.k.a. Reconstruction of the Islamic Community; a.k.a. Reconstruction of the Muslim Ummah; a.k.a. Ummah Tameer I-Nau; a.k.a. Ummah Tamir E-Nau; a.k.a. Ummah Tamir I-Nau; a.k.a. Ummat Tamir E-Nau; a.k.a. Ummat Tamir-I-Pau)
- Loyalist Volunteer Force (LVF)
- Ulster Defense Association (a.k.a. Ulster Freedom Fighters)
- Afghan Support Committee (a.k.a. Ahya ul Turas; a.k.a. Jamiat Ayat-ur-Rhas al Islamia; a.k.a. Jamiat Ihya ul Turath al Islamia; a.k.a. Lajnat el Masa Eidatul Afghania)
- Revival of Islamic Heritage Society (Pakistan and Afghanistan offices -- Kuwait office not designated) (a.k.a. Jamia Ihya ul Turath; a.k.a. Jamiat Ihia Al-Turath Al-Islamiya; a.k.a. Revival of Islamic Society Heritage on the African Continent)

unclassified

8. Mohamad Funaitel Al-Daihani

unclassified

29/07/18

Exhibit RS

1575

unclassified

QUESTIONS FOR THE FAMILY OF MUHAMMAD SIHLI AL DAYHANI

1. Please provide Al Dayhani's biographic information: given name, other names he is known as, date of birth, place of birth, home address.
2. Please provide the family's information: father, mother, brothers, sisters, wife (include date of marriage), and children.
3. What is Al Dayhani's educational background? What school(s) did he attend as a child? Did he graduate from high school, and if so, when and where?
4. Did he attend college/university and where? How was his education financed (ie scholarship, self financed, etc)? What did he study? Did he earn a degree and if so in what? What did he do after college?
5. Provide his employment history: Who has he worked for, how long, what were his duties, what was his salary?
6. Is there any evidence or documentation to support any charitable contributions that Al Dayhani made?
7. What was Al Dayhani's purpose for traveling to Afghanistan during September of 2001?
8. Do you have any pamphlets regarding the Sanabal Charitable Committee. If so, are you willing to provide these pamphlets to U.S. government authorities?
9. Do you know or have you heard of a person named Faisal? If so, what is Faisal's relationship to Al Dayhani? Have the two ever met in person, and if so, when?
10. What countries has Al Dayhani traveled to, when (dates), for what purpose, and how long did he stay?
11. What has he told you about his travels? What did he do during his travels? Who did he meet? What was his relationship to the people he met (acquaintance, business associate, friend)?

unclassified

pg 2 of 18 1576

ANSWER TO THE QUESTIONS FOR THE FAMILY OF
MUHAMAD SIHLI AL DAYHANI

1 Name : Muhamad Fenatil Sihli Al Dayhani

No other names

Date of birth : [REDACTED] 1965

Place of birth : Kuwait

Home Address : [REDACTED]

2. Father Name :

Mother Name :

Brothers Names :

Sisters Names :

Wife name :

Date of Marriage : 16th April 1987

Children Name :

3. Educational Background:

Kindergarten : Unknown

Elementary School : Talha

Middle School : Othiliah

High School : Jleeb Al Shouyookh which he graduated from in 1989 in
Kuwait

4. He attend Kuwait University in Kuwait City, Govt. scholarship, he studied
accountant science and he graduated from University degree in Auditing.

5. He was employed in the State Audit Bureau in 1991. His duty was in auditing on
some of the governmental establishment, his salary was about 1500 KD, he
worked before that one year in Ministry of Finance in 1989.

6. Yes we have. We have attached some documents supporting that he did
charitable contributions.

7. He did travel to help and aid poor people and people in need.

8. We are searching for such pamphlets and we will provide you with these
pamphlets if we find some.

9. Yes, [REDACTED] is Al Daihani's nephew. He is a teenager living in Kuwait with his
family. Yes, he see and meets with his nephew [REDACTED] in person many times
whenever they visited each other in Kuwait.

10. He travels to many countries with his family in his summer vacations and he
stays in these countries as long as his vacation lasts.

unclassified

11. He talked about the countries he visited about their culture, sightseeing as any tourist person visited any country. He says that he enjoyed his vacation and he was having good relaxation from work and a good time with his family. He also traveled to the Saudi Arabia to visit the Holy Mosque and Mecca several times for worshipping God. We do not have any specific dates for his travels.

Unclassified

الجمهورية العربية السورية
الجمهورية العربية السورية
الرقم المدني ٢٦٥١١٠٤٠٠٧٦٢



الاسم محمد فتيان سحلي
الديعاني

الجنس ذكر
البلد كويتي
تاريخ انتهاء البطاقة ٢٠٠٣/ ١/ ٢٧

[Redacted]

[Redacted]

[Redacted]

[Redacted]



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Unclassified

1579
Pg 5 of 18

State of Kuwait

Civil ID Card

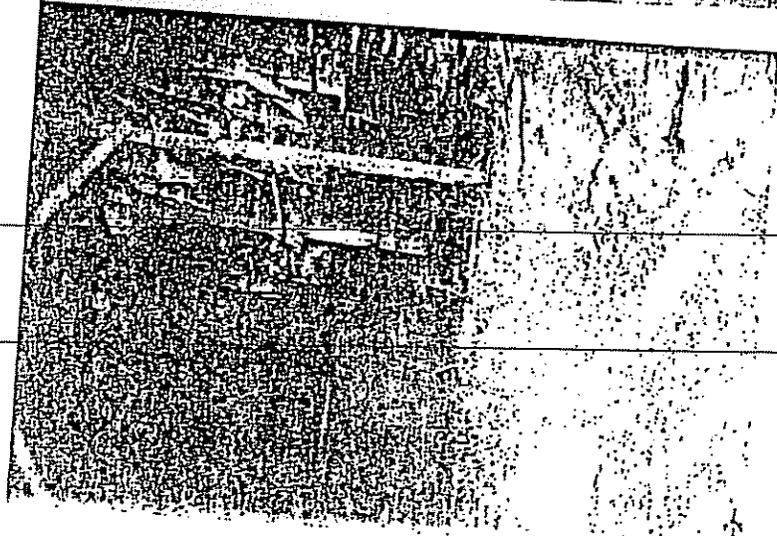
Civil No. 265110400762
Name Mohamad Fenaytill Sahli Mohamad Al-
Daihani
Nationality Kuwait
Date of birth [REDACTED]/1965 Sex Male
Expiry Date 27/6/2003

Overleaf:

Civil No. of the concerned party 265110400762

Nationality No. 186588
Address [REDACTED] [REDACTED]
Building/ Plot [REDACTED] Type of Unit [REDACTED]
Unit No. -- Floor --
Tel. No. [REDACTED] Blood Group O-

UNCLASSIFIED



جسٹس اکیڈمی
بھارتیہ ایئر فورس
نئی دہلی - 110010

UNCLASSIFIED

1. *[Faint handwritten text]*
 2. *[Faint handwritten text]*
 3. *[Faint handwritten text]*
 4. *[Faint handwritten text]*
 5. *[Faint handwritten text]*
 6. *[Faint handwritten text]*
 7. *[Faint handwritten text]*
 8. *[Faint handwritten text]*

UNCLASSIFIED

Unclassified

Association for Islamic Development Aid, Inc.

P.O. Box 1502, Telephone 675

Pagadian City

Philippines

Date : . . .

No.

Details of the completed project

- Project No. FB:4/92, digging of a water well
 - Donor : Mother of Mohamad Fenaytill Sahli Al-Daihani, May God reward him.
 - Via : Sabah Al-Naser Alms Committee, May God reward them
-
- Address of project : Crosni Kouf, Demaltin, South Rambonga, Phillipines.
 - General costs : KD200/-
-
- Commencement date of execution :
 - Area of the project :
 - Photos of the project are herewith enclosed.

Association for Islamic Development Aid, Inc

(Signed)

Unclassified

PS 81582



لله الشكر والحمد

ج: ١ / ١١ / ١٤١٦ هـ

جمعية إحياء التراث الإسلامي

: ٢٠ / ٢ / ١٩٩٦ م

صادر: /

لجنة جنوب شرق آسيا

أن/٦١/٩٤

المشروع باسم/أم محمد فنيطل الديحاني ووالديها جزاهم الله خيرا

السلام عليكم ورحمة الله وبركاته،،،

أما بعد،،،

يسرنا ابلاغكم بالانتهاء من إنجاز مشروعكم المبارك المتمثل في

- شراء مزرعة في أندونيسيا وبهذه المناسبة لايسعنا إلا أن ندعو المولى

عزوجل أن يتقبل منكم هذا العمل الطيب ويجعله خالصا لوجهه الكريم

ومضاعفا في ميزان حسناتكم ..ونسأله تعالى أن يبارك فيكم وفي أموالكم

ويجعلكم من السباقين دوما لفعل الخيرات .

وفقنا الله وإياكم لما يحبه ويرضاه .

وجزاكم الله خيرا ،،،

والسلام عليكم ورحمة الله وبركاته

رئيس لجنة جنوب شرق آسيا

جمال يوسف الحارثي

٢

للجمعية

1583
18/9/95

Unclassified

**Revival of Islamic Heritage Society
South East Asia Committee**

Date : 1/11/1416 A.H.

Corresponding to : 20/3/1996

Outward No. : AN/61/94

The project is in the name of mother of Mohamad Fenaytill Al-Daihani and her two sons,
may God reward them

Peace be upon you

Dear Sir,

We are pleased to inform you of the completion of your project represented in the purchase
of a farm in Indonesia. On this occasion we can do nothing but to pray to Al-Mighty God to
accept your kind work and to make it pure for His sake and to double the reward for you.
Further we ask Al-mighty God to bless you and your funds and to make you always from
among those who do good deeds.

May God guide us and you to what He likes and accepts.

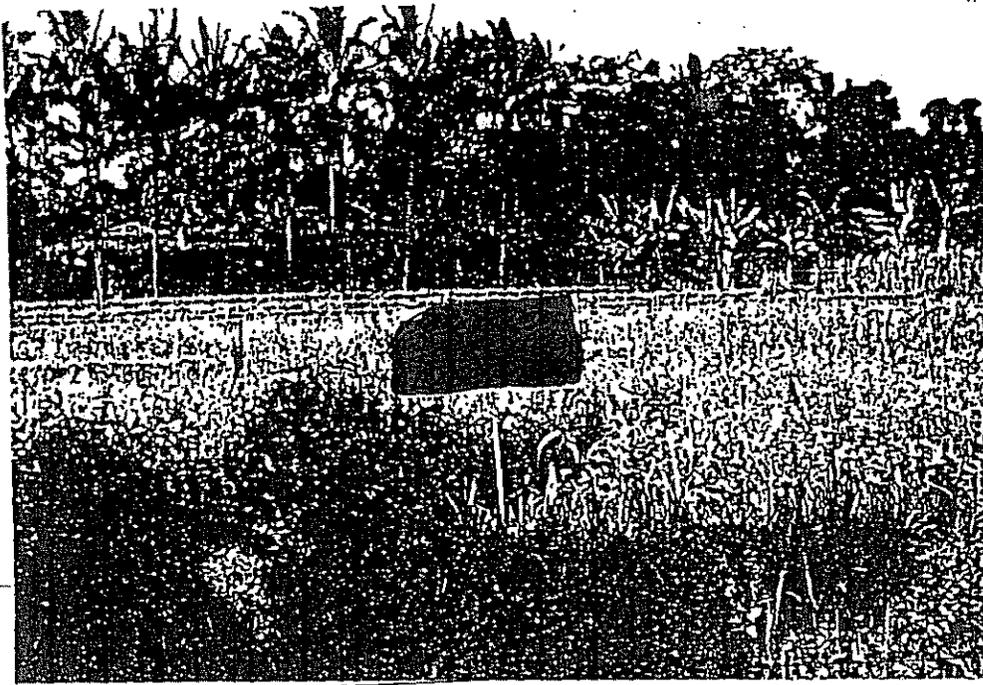
May God reward you .

Peace be upon you

Head, South East Asia Committee
Jamal Yousuf Al-Haddad
(Signed)

Unclassified

1584
125 120 A18



وتقع هذه المزرعة في قرية سوکاجایا بمدينة بوقور
نحو ٧٠ كم جنوب جاكرتا عاصمة إندونيسيا



منظر المزرعة من بعيد

Handwritten signature or name.

Unclassified

This farm is located at Sukujaya village, Bukor City, about 70 kilometer south to Jakarta,
Capital of Indonesia.

Perspective of the farm.

Unclassified

PS 1586/18

إدارة بناء المساجد والمشاريع الإسلامية

«يا أيها الذين آمنوا أوفوا بالعقود»



عقد اتفاق بناء

التاريخ ٤ من رمضان سنة ١٤١٤ هـ . الرقم: آن/٦١/١٤

الموافق ١٤ / ٢ / ١٩٦٤ م .

مشروع : شرا - مزرعة

المدينة : الدولة أندونيسيا

الطرف الأول: إدارة بناء المساجد والمشاريع الإسلامية . ومثلها الاخ / طارق العيسى . يحفظه الله

الطرف الثاني: اللجنة الخيرية المشتركة

نود العقد:

(١) يتعهد الطرف الأول بتمويل مشروع : شرا - مزرعة (صتقة جارية)

(٢) مدة تنفيذ المشروع :

(٣) يتعهد الطرف الثاني بتنفيذ المشروع حسب المخططات والمواصفات المتفق عليها على أن لا يزيد المبلغ

عن :

-/ ١٠٠٠ د.ك (ألف دينار كويتي لاغير)

(٤) يتعهد الطرف الثاني بارسال تقارير وصور دورية يبين فيها مراحل الانجاز

(٥) يرسل المبلغ على : دفعة واحدة .

(٦) استلم الطرف الثاني مبلغ وقدره : -/ ١٠٠٠ د.ك (ألف دينار كويتي لاغير)

(٧) المتبرع للمشروع : الاخـت الفاضلة / أم محمد فنيطل الديقاني ووالديها :

(٨) بواسطة / محمد فنيطل

طرف / فرع جليب الشيوخ

توقيع الطرف الثاني

توقيع الطرف الأول

رئيس

اللجنة الخيرية المشتركة

محمد زورويان بن فداوي

مس ب ٢٨١٣ الفاضلة 72252 الكرون

١٥ ١٣ ١٥

158

Umeed Al-Hajj

State of Kuwait
Revival of Islamic Heritage Society
Mosque Construction and Islamic Projects Department

"O you believers you must fulfill contracts"

Construction agreement contract

No. AN/61/94

Date: 4 Ramadhan 1414 A.H.

Corresponding to : 14/2/1994

Project : Purchase of a farm

City : - Country : Indonesia

First party : Mosque Construction and Islamic Projects Department, represented by Mr.

Tareq Al-Essa, may God keep him

Second party : Combined Charitable Committee

Terms of contract :

- 1) The first party undertakes to finance the project of purchasing a farm (continuous alms)
- 2) The term of project execution:.....
- 3) The second party undertakes to execute the project as per the agreed upon plans and specifications, provided that the amount should not exceed KD1000/- (Kuwaiti Dinars one thousand only).
- 4) The second party undertakes to send periodical reports and photos indicating the stages of completion.
- 5) The amount should be sent on one payment.
- 6) The second party has received the sum of KD1000/- (Kuwaiti Dinars one thousand only).
- 7) The donor: Mrs. Mother of Mohamad Fenaytill Al-Daihani and her two sons, via Mohamad Fenaytill
- 8) At Jleeb Al-Shuyoukh.

Signature of the First party

(Signed & sealed)

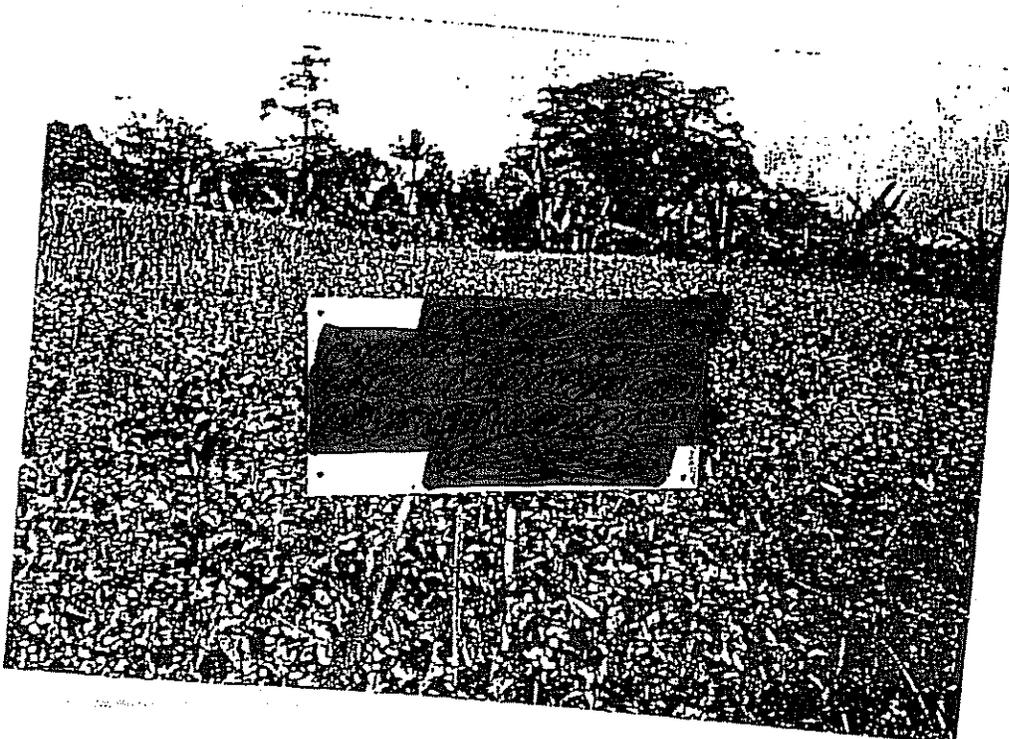
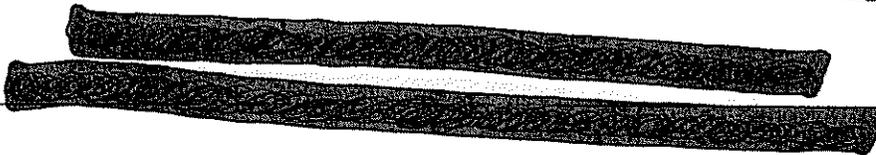
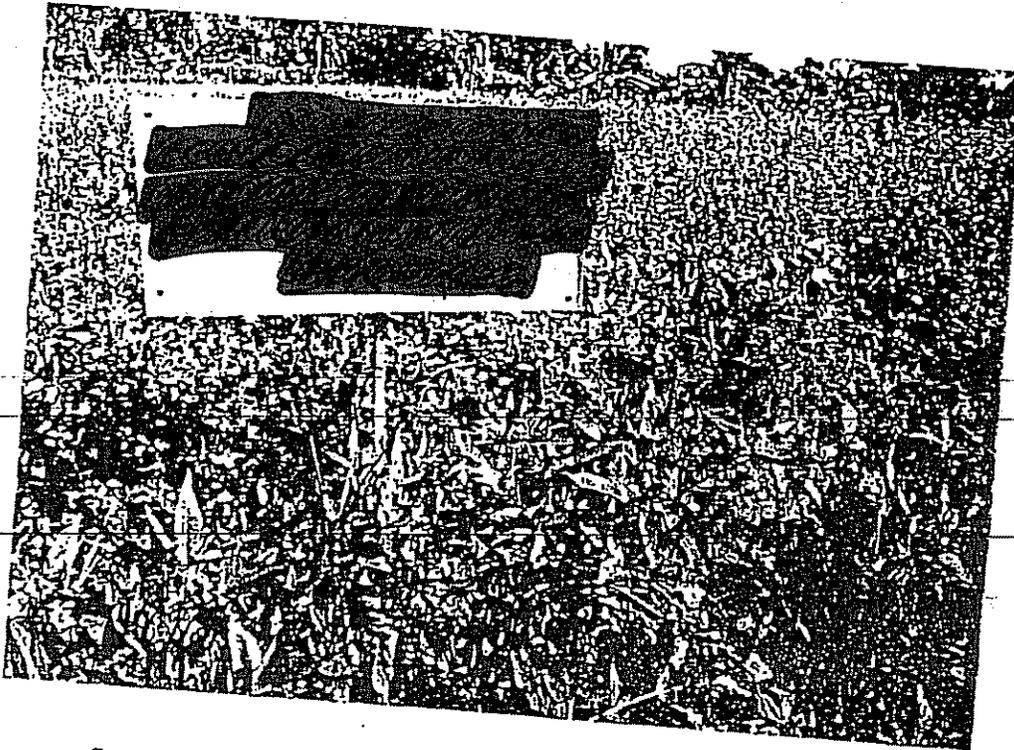
Signature of the Second party

(Signed & sealed)

Umeed Al-Hajj

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pg 14 of 18



Unclassified

62/94

In the name of God, Most Compassionate, Most Merciful

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them.

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them

62/94

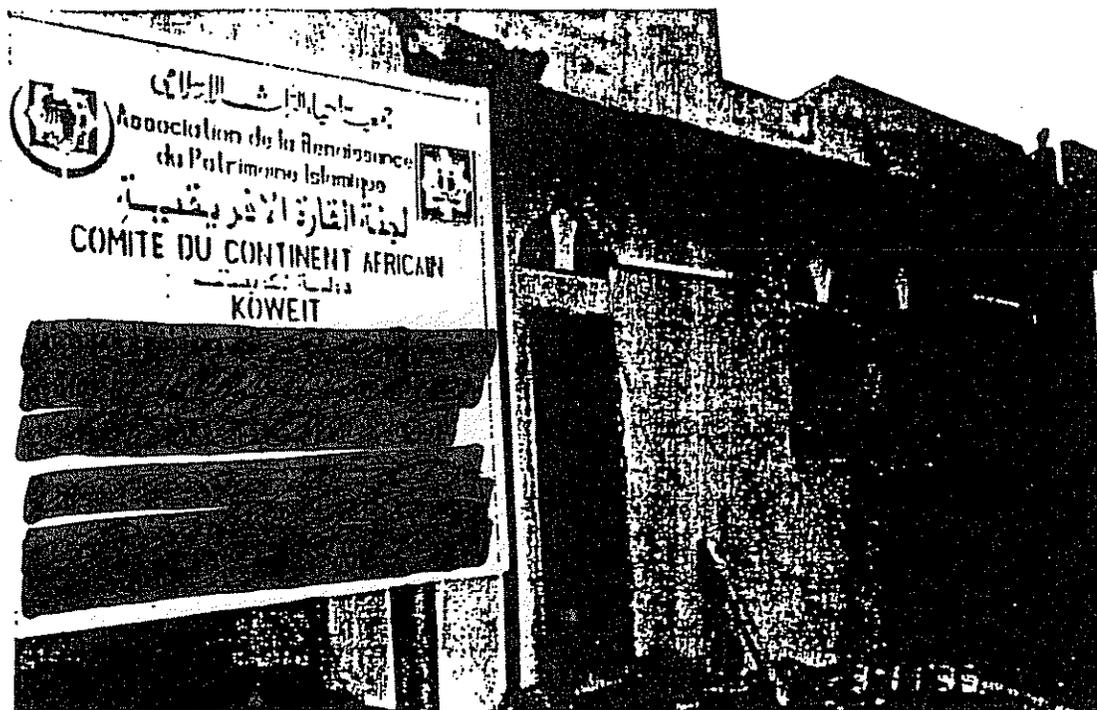
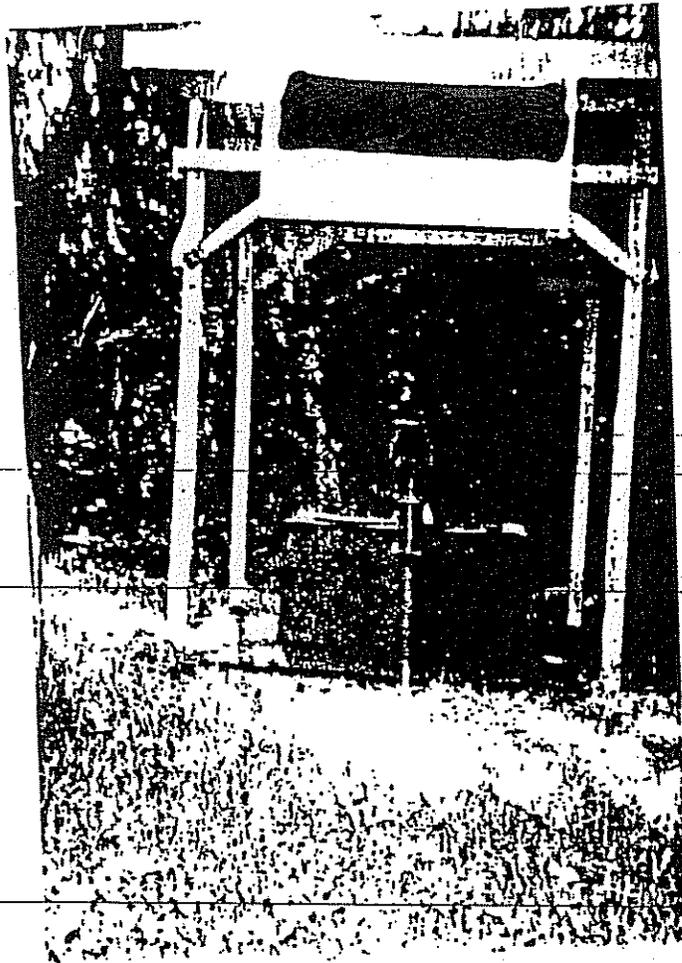
In the name of God, Most Compassionate, Most Merciful

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them

unclassified

15906 of 18



Unclassified

Mother of Mohamad Fenaytill Sahli Al-Daihani,
Via Mohamad Fenaytill Sahli Al-Daihani,

Association for Islamic Heritage Revival Society

African Continent Committee

State of Kuwait

Donor's name [REDACTED] via Mohamad Fenaytill Sahli Al-Daihani,

Type of project: Construction of a mosque.

Contract No. : BN/1/95

Place of project : Ketou

Country: Benin

Execution and supervision : African Continent Committee Office, Benin.

Unclassified

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Pg 18 of 18

Personal Representative Review of the Record of Proceedings

I acknowledge that on 5 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]

[REDACTED] Lt. Col., USAF

5 Oct 04
Date

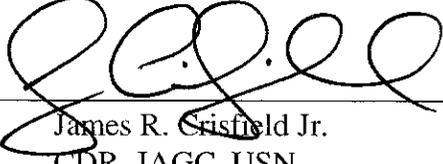
[REDACTED]

Signature

ISN # [REDACTED]
Enclosure (5)

personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 7 Oct 04


James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

3 October 2004

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From: Director, Combatant Status Review Tribunal

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

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

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

A handwritten signature in black ink, appearing to read "J. M. McGARRAH", is centered below the list.

J. M. McGARRAH
RADM, CEC, USN

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

FOR OFFICIAL USE ONLY

2 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

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

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

Encl: (1) Appointing Order for Tribunal #4 of 6 August 2004
(2) LCol [REDACTED] email of 2 Oct 04
(3) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-2 and R-3 was redacted. The FBI properly certified in exhibit R-15 that the redacted information would not support a determination that the detainee is not an enemy combatant. Furthermore, the Tribunal, on its own accord, sought additional information in this matter. One of the documents it requested and subsequently reviewed by the Tribunal was classified TS/SCI. The Tribunal did not attach the document to their Decision Report in order to maintain its Secret classification. I also have not attached the document to this Record of Proceedings in order to maintain the record at a usable classification level. Enclosure (2) is an email, classified Secret, from Lieutenant Colonel [REDACTED] USMC, one of the Tribunal members, which states that the Initial Intelligence Report (IIR) attached to the Tribunal Decision Report as exhibit R-10 is substantively identical to the TS/SCI document requested and considered by the Tribunal. This substantive equality allows us to adequately review the information considered by the Tribunal in reaching their decision without maintaining the Record of Proceedings, or portions of the Record, inside a Sensitive Compartmented Information Facility (SCIF). If you desire, the original TS/SCI document can be made available for you to review inside a SCIF. Additional information requested by the Tribunal was attached to the Record of Proceedings by the Tribunal as exhibit R-16.

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

- d. The detainee made no requests for witnesses or other evidence.
 - e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
 - f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

UNCLASSIFIED



Department of Defense
Director, Combatant Status Review Tribunals

6 August 2004
Ser0038/ajs

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #4

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

21 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #4

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #4 of 6 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

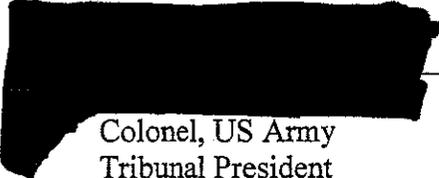
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) (U) Summary of Detainee Testimony (U//FOUO)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U//FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 11 September 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee # is designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee was a member of, or affiliated with, Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, as more fully discussed in the enclosures.

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


Colonel, US Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #4 _____
ISN #: _____ [REDACTED]

1. Introduction

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

2. Synopsis of Proceedings

The Tribunal initially commenced on 28 August 2004. The unclassified evidence presented to the Tribunal by the Recorder in the form of the Summary of Evidence for Combatant Status Review Tribunal (Exhibit R-1) indicated: The detainee is associated with Al Qaida and the Taliban; in August or early September 2001, the detainee admitted to traveling through Afghanistan with Taliban members; the detainee admitted to firing an AK-47 at a training camp near Kandahar [Afghanistan]; the detainee admitted to staying at a guesthouse with fighters armed with AK-47 rifles; the detainee engaged in hostilities against the U.S. or its coalition partners; the detainee admitted to carrying an AK-47 through the Tora Bora mountains for ten (10) to eleven (11) days during the U.S. air campaign in that region; and the detainee was captured with five (5) other men by Pakistani border guards. The Recorder called no witnesses.

The detainee elected to participate in the Tribunal process. He communicated his desire to participate to his Personal Representative prior to the proceedings, and his decision was recorded on a Detainee Election Form dated 10 August 2004, which was signed by his Personal Representative. The detainee elected to testify under oath at the proceeding (Enclosure (3) to the CSRT Decision Report). In his oral statement, the detainee claimed, in sum, that the assertions in the Summary of Evidence for Combatant Status Review Tribunal (Exhibit R-1) are incorrect. After being reminded by the Tribunal President that he did not have to answer any questions, the detainee indicated he would answer questions. The detainee then proceeded to answer questions from the Personal Representative, the Recorder, and the Tribunal for a period of approximately fifteen (15) minutes. The detainee's answers were generally consistent with his statement and further explained why the detainee claimed the assertions in Exhibit R-1 were incorrect. The Personal Representative called no witnesses.

During the classified portion of the Tribunal, the Recorder presented Exhibits R-2 through R-14. After reading Exhibit R-12 (JTF GTMO Memorandum dated 31 January 2004), which referenced sensitive reporting information the Tribunal considered important to review prior to making its determination on the detainee's status, the Tribunal President directed the Recorder to produce the sensitive reporting information. As the requested information was not readily available, and some members associated with the proceeding did not have the appropriate clearance, the Tribunal President ordered a recess until all matters could satisfactorily be resolved.

On 11 September 2004, in the Joint Intelligence Group (JIG) Sensitive Compartmentalized Information Facility (SCIF), the Personal Representative, a substitute Recorder, and the Tribunal read the requested classified information (Exhibit R-16 and a TS/SCI document that can be retrieved by its classified subject line, which is specified in Enclosure (2) to the CSRT Decision Report). The Tribunal then reconvened to recap the classified document review on the record, admit Exhibit R-16, and formally close for deliberations.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

a. Exhibits: D-a through D-d, R-1 through R-16, and a TS/SCI document identified in Enclosure (2) to the CSRT Decision Report.

b. Testimony of the following persons: None.

c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1 and R-15 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it offers conclusory statements

without supporting unclassified evidence. Exhibit R-15, an FBI certification regarding redacted information, provided no usable evidence. Accordingly, the Tribunal had to look to the classified exhibits to support its conclusions.

b. Essentially, the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee's sworn testimony claims the information in Exhibit R-1 is incorrect.

c. The Tribunal also considered Exhibit D-d, a USA Today article dated 19 April 2004, which describes the detainee's father's efforts to free his son. Although much of the article is not relevant to a determination of the detainee's status, the article notes the detainee contacted his parents shortly after the 11 September 2001 attacks and told them he was assisting refugees streaming from Afghanistan. The detainee did not mention this phone call or this activity during his testimony before the Tribunal. Instead, he explained he could not return to Kuwait right after the 11 September attacks because the Kuwaiti government would find his return suspicious. The Tribunal did not believe that explanation, and instead found his decision to remain in Afghanistan suspicious.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

The Tribunal consulted the CSRT Assistant Legal Advisor regarding how to conduct the review of sensitive reporting information in the JIG's SCIF. The Tribunal also swore in a substitute Recorder with a TS/SCI clearance to address the sensitive reporting information. The CSRT Assistant Legal Advisor provided guidance on the proper way of doing so.

7. Conclusions of the Tribunal

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

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

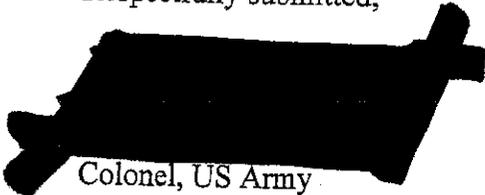
b. The detainee understood the Tribunal proceedings and actively participated in the Tribunal process.

c. The detainee is properly classified as an enemy combatant because he was part of or supporting Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction box covers the signature of the Tribunal President.

Colonel, US Army
Tribunal President

Summarized Detainee Statement

Tribunal President: Fouzi Al Awda, you may now present any evidence you have to the Tribunal. You have the assistance of your personal representative in doing so. Do you want to present any information to this Tribunal?

Detainee: Yes, I would like to defend myself.

Tribunal President: Would you like for your statement to be under oath or not under oath?

Detainee: If you wish for me to swear, I will swear.

Tribunal President: It is strictly your choice. We have both a Muslim and non-Muslim oath. At this time I will ask the Personal Representative if, prior to this, did the Detainee indicate he wanted to be sworn or unsworn?

Personal Representative: The Detainee wishes to be sworn using the Muslim oath.

Tribunal President: Is that still the case?

Detainee: Yes.

Tribunal President: Okay then. Recorder, please administer the Muslim oath.

The Detainee was sworn by the Recorder. The Personal Representative hands a copy of the unclassified summary, translated in Arabic language, to the Detainee for reference during his testimony.

Detainee: I would like to start by telling you a little about my background first, then I will address the evidence.

Tribunal President: That is fine.

Detainee: I was raised in an educated family. Several members of my family, like my father and my uncles, have studied in the United States. I visited the United States when I was younger. I also visited the United States about a year before the September 11th attacks. My family has never had a problem with the United States, nor do I have anything against Americans. I have lived among Americans in my home country for about twelve years. I do not hold anything against U.S. troops. If I had any bad intentions against United States soldiers, I would have had a chance to do something in my home country because they were there. I graduated from college, Al Shari, after four years of study.

UNCLASSIFIED//FOUO

Detainee: I worked after that for six months in a Government-ran charity house. I would visit people in need and write down what they needed. After that, I worked as a teacher in an Islamic school. The purpose of my telling you my background is to justify my reasons for going to Afghanistan. I went to Afghanistan to teach and to help other people. That is what I was doing before. The other thing is if I had any bad intention towards the United States, I have a visa to the United States that is good for ten years that I could have used if I had wanted to. The last thing: I traveled to Afghanistan before the events of September 11th. It was my bad luck and bad timing that these events happened while I was in Afghanistan. Shall I address each statement one by one as it is written in the unclassified summary?

Tribunal President: That is strictly your choice.

The Detainee proceeded to address each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).

3.a. Detainee is associated with Al Qaida and the Taliban.

1. In August or early September 2001, Detainee admits traveling through Afghanistan with Taliban members.

Regarding the first statement, traveling through Afghanistan with a member of the Taliban was necessary because that was the Government in Afghanistan at that time. I always had to have a Government liaison when I was traveling. With the help of the Taliban representative, I traveled through Afghanistan to meet the people I was trying to help, the people in need. That does not mean at all that I am affiliated with the Taliban or that I am an active member of the Taliban. For example, the ICRC could not move around in Afghanistan without a Government liaison with them at all times. That does not mean that the ICRC is a member of the Taliban.

2. Detainee admits firing an AK-47 at a training camp near Kandahar.

In regard to the second statement, it was not a training camp. It was just a place for learning for people age twelve to fourteen years old. It was being looked after or supervised by the Taliban. The reason I was there was to teach some lessons. I was only there from the morning until sunset. The only thing that was taught there was shooting or aiming at targets. That was the training that they had. In Afghanistan, shooting a Kalashnikov is just like throwing stones. It is very common. When I went through the training with the Kalashnikov, it was just out of my wanting to learn how to shoot a Kalashnikov. That cannot be called military training. For example, in the United States, there are many places you can go to learn how to shoot. That is not considered military training.

UNCLASSIFIED//FOUO

3. *Detainee admitted staying at a guesthouse with fighters armed with AK-47 rifles.*

Detainee: I was surprised to hear from the Captain that the guesthouse was run by Al Qaida. It does not say that here in my translated version. It does not mention Al Qaida.

Tribunal President: Can you read word for word what it says there in the version given to you?

Detainee: The Detainee admits staying at a guesthouse with individuals who were armed with weapons like the AK-47.

Tribunal President: Very similar to ours. Ours also does not say Taliban guesthouse.

Detainee: Maybe I heard wrong.

Tribunal President: That is okay. The important point is ours reads the same as yours.

Detainee: I did not stay in a guesthouse. I stayed in a house with a man, his wife, and kids. That was for a few days - maybe a week or less. After that, I went through the mountains to Pakistan. During my stay in that house, there were two other individuals that would visit occasionally. These individuals would come and go, but they were not staying there. Regarding the fact they were armed, every Afghan and every Arab was armed. It was neither a big deal nor anything out of the ordinary. Even in Yemen, it is the same way. When the conflict started, the owner of the house gave me a weapon to defend myself because the Afghans were going after the Arabs. They were robbing them. I had the weapon to defend myself against them. I was obligated to have the weapon. I did not have a choice. It was either be killed or defend myself. In summary, I did not carry the weapon to kill anyone; it was only to defend myself.

3.b. *Detainee engaged in hostilities against the US or its coalition partners.*

1. *Detainee admits to carrying an AK-47 through the Tora Bora mountains for ten to eleven days during the US air campaign in that region.*

I already said that in regard to the weapon, I had it to defend myself. About my being in the Tora Bora region, that was the only way to get from Jalalabad to Pakistan. I had to cross through that mountain area. I was not the only person in this area. There were many people there, families and others all headed to Pakistan. I am surprised to learn that carrying a weapon in that region was considered a hostile act. What can an AK-47 do against an American plane?

2. *Detainee was captured with five other men by Pakistani border guards.*

I was not captured by Pakistani forces. I surrendered. I turned myself in. I asked to be handed over to the Kuwaiti Embassy. If this case is about my being an enemy combatant, I had the weapon. I could have killed if I wanted to. But I did not. I turned myself in so I could be taken to the Kuwaiti embassy.

I would like to make two more statements to summarize or conclude what I have said. My first point is I do not know what is the nature of the classified evidence. There are some things I am accused of that I do not see in this summary. All I can say is, when a person is under arrest or in handcuffs, he can be under mental stress. He can say things he does not mean. Sometimes the only way when you are in a situation like this, you are forced or compelled to say something against others during the interrogation. Sometimes a person can talk about someone else or accuse a person of doing something they did not do just so they can get out of their situation. You will know, as people who work in the court system or people who deal with the law - I also studied the law - there are certain conditions when someone is a witness. Just because someone says that someone did something, that does not mean that it is true.

My last point is if you can go back and look at my records from my home country, or even my family's records, you will find that I have never even been in a police station before. I have not ever committed any crime or I have never done anything wrong. How would I go into the biggest terrorist act that has happened so far if I have never committed any crimes before? If I were committing terrorist acts, I would have done so when I was in the United States for that one month. Thank you.

Excuse me. There is one more point I would like to make. During my entire life, even back in my home country, I never had any kind of military training. So how is it that two weeks before the events, I could suddenly become a combatant or a fighter? I went to Afghanistan for two weeks on a leave or holiday from my work. Like a vacation. It was an official break from my work.

Tribunal President: Okay. Due to the length of your statement, we are going to take a brief recess to allow the Tribunal members to go over their notes.

The hearing recessed at 0911 hours. The hearing re-opened at 0915 hours. All parties present prior to the recess were again present.

Tribunal President: Fouzi Al Awda, does that conclude your statement?

Detainee: Yes.

Tribunal President: Will you answer questions?

Detainee: Yes.

UNCLASSIFIED//FOUO

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

Personal Representative: Yes, Sir, I do. Why was shooting taught at the camp?

Detainee: It was not necessarily training. It is known that, for that age group, young people like to try these things. That is why it was taught. It was just for the kids who wanted to try it. They were brought to that camp, so they could be taught.

Personal Representative: Did you ever fire your AK-47?

Detainee: No. They have AK-47s that are easily available in Kuwait, but I have never fired any shots.

Personal Representative: While you were in the Tora Bora region, did you ever fire any shots?

Detainee: No.

Personal Representative: The money for your trip -- where did it come from?

Detainee: I work. My monthly salary is \$2,000.00 dollars.

Personal Representative: No other questions.

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

Recorder: Yes, Sir, I do. When you went through the Tora Bora mountains, did you discuss or think about what you would have done if you encountered US or coalition forces?

Detainee: No, but if I would have seen any American troops, I would have turned myself in to them.

Recorder: Did anyone in the group you were with discuss what they would have done if you encountered US or coalition forces?

Detainee: I was not traveling with any group. There were just people together, but I was not traveling with anyone.

Recorder: That is all I have, Sir.

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

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Tribunal Member: Just clarify for me, were you ever a part of Al Qaida or the Taliban? Did you ever support Al Qaida or the Taliban?

Detainee: No. Never.

Tribunal Member: In the camp with the twelve to fourteen year olds, I believe you said you were teaching some lessons. What were you teaching?

Detainee: Teachings of the Koran. That is what I specialize in. That is my area of expertise. I even teach the Koran in here.

Tribunal Member: When you were at the house with the family, where did you stay?

Detainee: They had me in a separate room of the house.

Tribunal Member: Did you know those people?

Detainee: I knew the guy's name, Abu Bakar, from Tunis. I did not know anything more about him.

Tribunal Member: So you did not know if he was a Taliban or a Taliban supporter?

Detainee: No, because a lot of Arabs were living in Afghanistan. They were not a part of any particular group.

Tribunal Member: In that same house, the two other folks who would come and go - were you aware of any affiliation with Al Qaida or Taliban?

Detainee: No.

Tribunal Member: The owner of the house was from Tunis, so he was an Arab?

Detainee: Yes. In case you are surprised or wondering why, I do not know if any of those people were a part of the Taliban. It is because no one at that time would mention or talk about if they were a part of the Taliban. If they did talk about it, the Afghans would come and attack them. So no one would mention any affiliation, if they had any.

Tribunal Member: I am just trying to get the facts in my mind straight. The last bullet in the unclassified statement said you were with five other men. You did not travel with anyone and you did not know who they were?

Detainee: There may have been more than five people. I did not know them. I was not traveling with them. People were all around me. There could have been more or less, but I was not with them.

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Tribunal Member: You had no knowledge of who this group of people were or were not supporting?

Detainee: No. I did not know and I did not care who they were with. I just wanted to leave. If you are wondering why I did not know if any of these people were Taliban or Al Qaida, it was because we were traveling through the snow. People were dying from the snow or from being hit by fire. There was no time to ask anyone where they were from or who they supported or what they were a part of.

Tribunal Member: I am not surprised. I am just trying to find out the factual evidence. Thank you.

Tribunal Member: What country are you from?

Detainee: Kuwait.

Tribunal Member: Was your trip to Afghanistan of an official nature relating to your job or was it a vacation?

Detainee: During my official summer break, I left for Afghanistan for two weeks. My grandmother was sick with cancer at the time. She gave me money she wanted me to give to people who were in need. It was an act of good will. She was very sick and she wanted to give her money to the poor. She thought it would help her. That is why she gave me the money and wanted me to distribute it.

Tribunal Member: So, you were not visiting as a part of your official responsibilities?

Detainee: No. It was a personal trip.

Tribunal Member: Can you give me a little more information regarding the reasons why you needed a Taliban official escorting you if this were a personal trip?

Detainee: I was going to visit some schools during my trip. Schools are a part of the Government. That is why I needed the escort. Also, I did not know the country. I would not have known where to find the poor or needy people if the escort did not show me.

Tribunal Member: So, did you arrange the trip with the Taliban Government prior to going?

Detainee: No. It was after I arrived there. I was praying in one of the Mosques. I asked around for a representative from the Taliban Government.

Tribunal Member: Where was the house you were staying with the family located? What city was that?

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Detainee: In Jalalabad.

Tribunal Member: Why were you staying in that house with the family? What made you pick that place to stay?

Detainee: I went to Jalalabad because it was the closest area to the Pakistani border. I was praying in one of the Mosques when I was approached by this Arab man. He invited me to stay at his home. When the owner of the house found out I was planning to leave, he said come stay with me for a few days until you figure out what you want to do. It was just an act of kindness on his part.

Tribunal Member: When the owner gave you the AK-47, did the owner have a bunch of weapons available? Or did he have an extra weapon? Where did the weapon come from?

Detainee: I did not see all of the house. The owner of the house came into my room and explained there was a lot of conflict and commotion going on. He told me to take the weapon to defend myself.

Tribunal Member: When did you go on your vacation to Afghanistan? Can you give as close of a date as possible?

Detainee to Personal Representative in English: Do you have the date? Can you tell them?

Personal Representative: He traveled to Afghanistan between the 29th of August and the 1st of September.

Detainee: Approximately, I can not remember exactly.

Tribunal Member: Were you at this man's house when the events of September 11th took place in the United States?

Detainee: No. It was two or three months after the attacks of September 11th.

Tribunal Member: If you went for two weeks at the end of August or the beginning of September, why didn't you go back at the end of the two weeks? Why did you stay?

Detainee: I was in Afghanistan when the attacks happened. Then the United States accused Al Qaida of planning the attacks. I was there at that time. They also accused the Taliban. I thought, how could I leave from a place that was under such scrutiny? I thought I would just wait until things calmed down some. Then I would try to leave. But unfortunately things just got more complicated instead of calming down. So I decided I

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just had to leave, even if things were still complicated. It got to the point when I decided I had to leave.

Tribunal Member: To follow up on that. You initially went only for two weeks at the end of August. The September 11th attacks took place at the end of those two weeks. There were no US attacks or coalition attacks right after September 11th. Why would you have not left at the normal time?

Detainee: I had a visa for Pakistan. If I would have tried to go back, they would have questioned me as to why I was in Afghanistan. It would have been difficult for me. It would have been complicated. I was afraid of being accused of anything I might not have done.

Tribunal Member: When you did leave and tried to get into Pakistan, did you have your passport with you?

Detainee: No.

Tribunal Member: What happened to your passport?

Detainee: I was in a place called Lowgar for about a month. I was hiding there with an Afghan. I gave him my passport, my money, and other documents for safekeeping. I took this man's address so when I got to Pakistan, I could write to him and get my things back that I left with him.

Tribunal Member: Why did you leave these things with him?

Detainee: If the Afghans saw I had a passport indicating I was an Arab, and they saw the money and the camera I had, I would have been killed. I do not know what happened to my things. I do not know if this guy still has them, if he sold them, or what he has done with them.

Tribunal Member: Couldn't they tell you were Arab by your language?

Detainee: I was not talking. Just like I was a mute. I would just walk and not say anything at all.

Tribunal President: In the youth camp where the training was conducted, did that camp have a name?

Detainee: I did not read any name.

Tribunal President: You mentioned when you were staying at the house that word came in Afghans were robbing Arabs. Who were the Afghans? Were they the Taliban?

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Detainee: I do not know. I do know after the Government collapsed - the Taliban - there were people who were like highway robbers, people who were opposed to the Government from the very beginning. It was just kind of a commotion that was going on.

Tribunal President: So, prior to the collapse of the Government, when you said Afghans, you said the Taliban was the Afghan Government?

Detainee: When did I say that?

Tribunal President: You said when you first got there to Afghanistan, you were escorted by the Afghan Government, and that was the Taliban. You said if you wanted to be escorted by any Afghani, you had to be escorted by Taliban because they were the Government.

Detainee: The Taliban was controlling Afghanistan, but that does not necessarily mean that every Afghan was Taliban. That was just the Government in Afghanistan.

Tribunal President: That is what I am trying to clarify now. When you said that the Afghans were robbing the Arabs, who were the Afghans?

Detainee: I do not know. Some of them could have been Taliban; some of them could have not been Taliban; some of them could have just been robbers. I do not know exactly.

Tribunal President: In your summary statement you said people who are under arrest make many statements that may be false. If we read or were to see statements you made during interviews, will we see different versions of the truth?

Detainee: No. Not my words.

Tribunal President: You mentioned at one point, while staying at that house during that time period, if you mentioned Taliban affiliation the Afghans would come and hurt you.

Detainee: I said no one at that time would mention who they were affiliated with or what group they were a part of.

Tribunal President: Okay, is that in general? Because earlier it was if anybody mentioned Taliban affiliation, then the Afghans would hurt them.

Detainee: Anyone. You would not say if you were a part of the Taliban, or if you were Arab or anything like that. The United States Government would give rewards or money to anyone who pointed out or got a member of the Taliban or Al Qaida. So, no one would say they were affiliated with any of these groups.

Tribunal President: So, at this time, the people who were robbing the Arabs are not Taliban, but opposed to the Taliban?

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Detainee: It's possible. I am not an Afghan. I did not know what was going on with the Afghans. Some of them were Afghans; some of them were Arabs.

Tribunal President: Okay. But it was a very bad thing to be affiliated with the Taliban in that region at that time?

Detainee: Correct.

Tribunal President: So I can track your movements, initially you started in the youth camp?

Detainee: Before that, I was touring the schools and visiting families - before the training.

Tribunal President: How long in to the two-week window did you make it to the youth camp?

Detainee: Maybe ten days.

Tribunal President: So, it was your intent to stay a couple of days at the youth camp?

Detainee: No. Just one day - from the morning until the evening.

Tribunal President: So, how long did you actually stay there?

Detainee: Six or seven hours - from the morning until late afternoon.

Tribunal President: You went from there to almost two or three months later to Tora Bora. What happened in the meantime?

Detainee: I stayed in Kandahar about a week to ten days after the September 11th attacks. The representative from the Taliban that was with me told me that was a dangerous place because it was the capital for the Taliban. The whole time this was happening, I was confused as to where I should go or when I should leave. I had all these questions I was thinking about. The representative advised me to go to a place that was a lot calmer than Kandahar. So I went to Lowgar and stayed there about a month.

Tribunal President: And where did you go from Lowgar?

Detainee: From there I went to Jalalabad.

Tribunal President: Okay.

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Tribunal Member: Did the Kuwaiti Government officially recognize the Taliban as the official Government of Afghanistan?

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

Tribunal Member: You mentioned you heard accusations that you did not see in the unclassified summary. What are those accusations you've heard about against you?

Detainee: One of the interrogators told me that I was in an Al Qaida training camp. They also accused me of having ties with terrorist organizations during the time I was in the United States. That is all I can remember. Every time they have a different accusation, but this is all I can remember.

Tribunal Member: I take it you deny those allegations?

Detainee: Yes.

Tribunal Member: During that three month time period, you did not go to any camps someone might say are Al Qaida camps?

Detainee: No, never.

Tribunal Member: When you went for your two-week vacation and you stayed for all those extra months, weren't you concerned about keeping your job?

Detainee: The reason I stayed there for so long was because I was scared for my life. To me, my life is more important than keeping my job.

Tribunal Member: So, at the two-week portion, right at the very end of when you were originally scheduled to go back, it was too dangerous to leave the country at that point?

Detainee: If I would have gone back to my country at that time, it would have been great embarrassment, or people would have looked at me strangely. I was just coming from Afghanistan and the United States had just accused Afghanistan, so it would have looked bad. I was afraid of the Kuwaiti authorities who would have obviously questioned me.

The Tribunal had no further questions for the detainee.

Tribunal President: Fouzi Al Awada, I appreciate you're answering all these questions.

Detainee: You are welcome.

Tribunal President: Do you have any other evidence to present?

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Detainee: After a Government is liberated by another Government - my country was liberated by the United States, so it is impossible after that happening, and after my being surrounded by and living with Americans in my country, and visiting the United States, after all that, it is impossible for me to be an enemy combatant against the United States. In my whole life, I have never been an enemy against anyone. I wish for that to be taken into consideration. Maybe the United States Government knows my father's history during the time of the occupation of Kuwait. My father was in the military and helped the United States during that time of the occupation. That is all I have.

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

Personal Representative: Yes, Sir. I have one additional unclassified exhibit. It's marked "D-B." It is a USA Today article that gives a background of the Detainee's family, travels of the family, and other things the Detainee mentioned earlier.

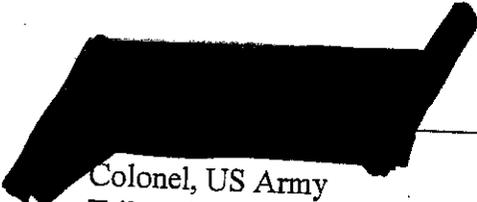
Tribunal President: Recorder, do you have any other unclassified evidence to present?

Recorder: No, Sir, I do not.

Tribunal President: Very well. All evidence having been provided to this Tribunal, this concludes this 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, US Army
Tribunal President

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Combatant Status Review Board

7 August 2004

TO: Personal Representative

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL AWDA, Fouzi Khalid Abdullah

1. Under the provisions of the Department of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he associated with Al-Qaida and the Taliban and engaged in hostilities against the United States or its coalition partners.
 - a. Detainee is associated with Al-Qaida and the Taliban.
 1. In August or early September 2001, Detainee admits traveling through Afghanistan with Taliban members.
 2. Detainee admits firing an AK-47 at a training camp near Kandahar.
 3. Detainee admitted staying at a guesthouse with fighters armed with AK-47 rifles.
 - b. Detainee engaged in hostilities against the US or its coalition partners.
 1. The detainee admits carrying an AK-47 through the Tora Bora mountains for ten to eleven days during the U.S. air campaign in that region.
 2. Detainee was captured with five other men by Pakistani border guards.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit R1619



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN [REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

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

²See Executive Order 12958

Unclassified

From:
Sent:
To:
Subject:

Classification: UNCLASSIFIED
Caveats: NONE

Thought you might like to see this or like

Interesting!

—Original Message

From:
Sent: Monday, April 19, 2004 4:18 PM
To:
Subject: FYI - Early Bird article

Classification: UNCLASSIFIED
Caveats: FOUO

UNCLASSIFIED - FOUO

USA Today
April 19, 2004
Pg. 14

Prisoner's Father Hopes Courts Find, Fix 'Big Mistake'

But U.S. says son is held in Cuba for good reason

By Richard Willing, USA Today

In Kuwait City, Fawzi al Odah was reared on the Koran and on tales of his father's days as a pilot who trained, partied and hung out with U.S. Air Force personnel in Texas.

In February 1991, when U.S. soldiers freed Kuwait from Iraqi invaders, young Fawzi joined his father, Khalid al Odah, in cheering the marching liberators from a road overpass. Fawzi, then 13, jumped down to join the parade and grabbed and waved an American flag, the father recalls in a telephone interview.

So it was a "terrible shock," Khalid al Odah says, to learn in early 2002 that his son was one of 12 Kuwaiti men who had been captured by the U.S. military in Afghanistan and then transferred to a detention camp at Guantanamo Bay, Cuba. The men, who have not been charged, still are being held by the U.S. government as "enemy combatants" in the war on terrorism.

"I think this is a big mistake," says Khalid al Odah, 52, who believes his son was captured by bounty hunters while doing relief work and then sold to the U.S. military, which was offering rewards for al-Qaeda and Taliban fighters.

"That isn't Fawzi," he says. "He didn't hate Americans, and he never had any weird activities."

Al Odah will be watching from afar on Tuesday when a case involving his son and the other Kuwaiti detainees is argued before the Supreme Court. The case is the first challenge to the legal underpinnings of the Bush administration's legal war on terrorism, and it asks whether the Guantanamo Bay detainees can challenge their detentions in a U.S. court. The Bush administration says that because they are foreigners held in what is

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Unclassified

Exhibit D-d

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technically foreign territory, the detainees should not have access to U.S. courts.

But beyond the significant legal issues raised by Fawzi al Odah's case, there are more personal questions that haunt his father: Was Fawzi an aid worker, as his father believes, or a volunteer for the Taliban or al-Qaeda? And if a man brought up in a pro-American home can fall under the spell of Osama bin Laden's jihad, what does that say about America's efforts to win the hearts and minds of moderate Muslims?

"It's all too much" to think about, Khalid al Odah says. "It is a big problem."

Fond memories of Texas

Khalid al Odah first visited the USA in 1975. Then 23, he was a pilot in the Kuwaiti air force who was assigned to learn to fly the F-5 Freedom Fighter jet in Wichita Falls, Texas. Today, his home in Kuwait City contains mementos of the months he spent practicing his flying and perfecting his English: a photo of al Odah drinking a Coke after a training exercise, addresses of American colleagues with whom he is still in touch. Al Odah went to San Antonio a year later for another training session.

"The openness of the people, to make friends with strangers, was remarkable to someone like me coming from a very different society," al Odah recalls. "And - I don't want my wife to hear this part - the discotheques (and) the dances, this was unforgettable to me."

Fawzi, the oldest of Khalid's five children, grew up quickly during the Iraqi occupation after his father went underground and joined the Kuwaiti resistance. "He was the man in the house," Khalid says. "I was very proud."

Fawzi al Odah, who turns 27 in May, majored in Koran studies at the University of Kuwait and taught Muslim principles and history after graduating in 2000. With other religious Kuwaitis, he spent his summer vacations in 2000 and 2001 in Pakistan, teaching and helping to distribute cash he had collected at home to people in villages near the Afghan border.

Just after the Sept. 11 attacks, Fawzi al Odah called his family to say he planned to spend a few weeks working with refugees who had begun to stream into Pakistan from Afghanistan. He was detained in Afghanistan sometime thereafter, and was transferred to U.S. custody and then to Guantanamo Bay in early 2002.

U.S. officials and many in Kuwait doubt that Fawzi al Odah's detention is a case of mistaken identity, as his father insists.

In papers filed in the Supreme Court case, the Justice Department notes that the U.S. military screened and released about 10,000 prisoners in Afghanistan. Only about 700 "with high potential intelligence value or (who) pose a particular threat" have been sent to Guantanamo, the government's papers say. Some have since been released.

Najeeb al Wagyan, a lawyer in Kuwait City, says that many Kuwaitis believe the detainees were up to something. "Everyone believes that there is more than (the men's duty to) religion involved," he says in a telephone interview.

All the more reason, Khalid al Odah says, to allow his son to plead his case in a U.S. court.

"I don't doubt that there are some bad people at Guantanamo, but there are innocent people, too. Look at the ones they release," he says, referring to 146 detainees who have been freed or cleared to be sent home. "To go to court and prove your case, that is how it is supposed to be done in America."

Family draws closer

In court papers, the U.S. government argues that it is necessary to continue to hold the men to prevent them from rejoining the fight against America.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 15 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

Lt Col USAF

14 Sept 2004

Date

ISN [REDACTED]
Enclosure (5)