

IN ABSTENTIA

Summarized Administrative Review Board Detainee Statement

The Presiding Officer read the Hearing Instructions.

The Assisting Military Officer presented Exhibit EC-A, the Enemy Combatant Notification Form to the Administrative Review Board.

The Assisting Military Officer presented Exhibit EC-B, the Enemy Combatant Election Form to the Administrative Review Board.

The Presiding Officer notes that the Detainee has elected not to be present at the Administrative Review Board. The Presiding Officer confirms with the Assisting Military Officer that he had met with the Detainee and explained to the Detainee his rights in regards to the proceedings. The Presiding Officer confirms with the Assisting Military Officer that the Detainee appeared to have understood the process and that the unclassified summary was read to the Detainee. The Presiding Officer also confirmed that a translator was used during the interview with the Detainee who spoke the same language as the Detainee.

The Designated Military Officer presented Exhibit DMO-1, the Unclassified Summary of Information to the Administrative Review Board.

The Designated Military Officer gave a brief description of the contents of Exhibit DMO-1, the Unclassified Summary of Information to the Administrative Review Board.

The Designated Military Officer confirmed that he had no additional unclassified information to present and requested a closed session to present classified information relevant to the disposition of the Detainee.

The Presiding Officer confirmed with the Assisting Military Officer that the Detainee elected not to participate in the Administrative Review Board process.

The Administrative Review Board continued "In Absentia".

Presiding Officer: Assisting Military Officer did the Detainee request that you present information to this Administrative Review Board?

Assisting Military Officer: Yes, sir. The Detainee requested that I provide one comment but I also would like to provide some information regarding the initial interview that I conducted with him on 3 January [2005] and also the follow up interview that I conducted on 31 January [2005]. I am ready to read that now sir.

Presiding Officer: Proceed.

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Assisting Military Officer: During the ARB initial interview on 3 January 2005, the Detainee stated that he had a lawyer and only his lawyer would respond to questions regarding his detention. He was informed by myself at that meeting that the ARB was a separate administrative process from the Habeas issue which he seemed to be referring to indirectly and that personal lawyers were not permitted to attend the ARB. On 24 January 2005, I received information from the Detainee operations group that this Detainee wanted to speak with me again. On 31 January [2005], I met with the Detainee and the translator and the Detainee informed myself that he no longer wanted to attend the ARB and requested that I make the following comments in his absence. I am going to provide a direct quote of what his comment was. I quote "I am innocent. I am not a threat to the United States and after three years in captivity the United States government knows that is true. The United States definitely knows I am innocent and if I am released they will know I am innocent when I go back and live in my country. I have no intention of ever harming Americans. I have never been a combatant, either before or after I was captured." That concludes my quotation, sir. That is all I have to report.

Presiding Officer: Thank you.

Assisting Military Officer: Your welcome.

The Designated Military Officer and the Assigned Military Officer have no other information to present to this Administrative Review Board.

The Presiding Officer reads the post-Administrative Board instructions and adjourns the open session of the Board.

AUTHENTICATION

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



U.S. Marine Corps
Presiding Officer

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January 29, 2005

Delivered to OARDEC via Court Security Office

Administrative Review Board
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

Re: ARB Hearing for Adil Said Al Haj Obeid Al Busayss, ISN 165 (u)

Dear Members of the Board:

(u) I am an attorney representing Mr. Adil Said Al Haj Obeid Busayss in habeas corpus proceedings in federal court in the District of Columbia. Over the past few months, my colleagues and I have spent many hours with Said and have come to consider him a friend. We are convinced that he represents no danger to the United States — or to anyone — and respectfully submit this letter in support of his release from Guantanamo.

(u) We understand that it is not the purpose of this hearing to revisit the determination that Said is an "enemy combatant." We will respect the boundaries of the proceeding and simply note our belief — which we have argued before the district court — that the definition of "enemy combatant" used during Said's status hearing was overbroad. As applied to the men held at Guantanamo, the definition improperly brings within its scope persons, like Said, who have never engaged in terrorist or illegal activity and who have never wished any harm against the United States.

(u) Said is no danger to anyone. He is not a secret operative silently plotting against American interests and he is not a member of Al Qaida. To the contrary, he is precisely what he appears: A young man with some college education who found himself caught up in a social cause he did not fully understand. In his three years at Guantanamo, Said has never denied the basic "charge" against him — that at the urging of a spiritual guide he left Yemen for Afghanistan to help defend the Taliban against the forces of the Northern Alliance. He is not accused of engaging in any hostilities with the United States. He is not even accused of actually firing a weapon towards any soldier of the Northern Alliance.

(u) Said's decision to work with the Taliban was surely ill advised, but it should be understood in context. Five years ago, he was a college student studying to become a teacher. He temporarily suspended his studies when he learned that teaching positions would be unavailable in the near future. After working several jobs (including as an assistant bookbinder, a position that he very much enjoyed) Said heeded a sheikh's request for young men to volunteer to go to Afghanistan

Classification derived from
memorandum fr. Cdr, USSOUTHCOM,
Subj: Recommendation to Transfer
to the control of another country
Foreign-Born Detention (FRCD) for
Guantanamo Detainee, ISN: 4594M-
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and assist in the establishment of a society based on Islamic law. It was a decision motivated by youthful idealism, but one made by Said with little understanding of the repressive manner in which the Taliban actually ruled the country.

(u) After some time in Afghanistan, Said began to regret his decision to obey the sheikh's call. Before leaving his home in Yemen, he had been advised that the Taliban government was engaged in good works and that it would bring safety and security to the people of Afghanistan. He gradually learned, however, that the Taliban were not beloved by the people — either Arab or non-Arab — and that the cause he had embarked on was more complicated than he had been led to believe. Although he feels that his decision to go to Afghanistan was honorable when he made it, Said has told me that in retrospect he would not make the same choice. And he has assured me that he would not entertain a similar call in future.

(u) Said wants nothing more than to leave Guantanamo and this chapter of his life behind him, returning to his home in Aden, Yemen. Waiting for him is a large and supportive family, including his father and five brothers and sisters. His long term goal is to return to his university studies, finish his degree and find work as a teacher in the countryside. In this endeavor he will have the assistance of his sister, who is already working as a teacher. In the short term, he intends to work — perhaps returning to bookbinding, perhaps joining his brother as a taxicab driver — to save up money for tuition and support a new family. Like many of the men at Guantanamo, his deepest longing is to marry and raise children of his own.

(u) With his supportive family, strong community ties, good prospects for work and a desire to complete his college education, Said will be an unlikely target for recruitment by religious or political extremists upon his return to Yemen. Moreover, he harbors no ill will towards the United States as a result of his long imprisonment at Guantanamo. To be sure, he is frustrated by his lengthy detention, but his time in Cuba has not "radicalized" him in any way. Instead, he feels great sadness for what the United States suffered on 9/11 and understands why our country acted in the strong manner that it did. He does not wish harm on America or Americans, and simply wants to move forward and return home to lead a normal life.

[REDACTED]

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act inconsistent with his fundamentally respectful character and gentle nature.

(u) The members of the Board may also be concerned by the insinuations in the classified record that Said possesses general intelligence information concerning Al Qaida. In this regard, the record is remarkable for its lack of evidence of a connection between Said and that organization. Said has never waived in his assertion that he is not a member of Al Qaida, that he does not know any Al Qaida members and that he does not even understand the Al Qaida belief system. Relying on flimsy speculation, however, the authors of some of the documents in the classified record suggest that he may be prevaricating.

(fou/ies)

[REDACTED]

(S)

[REDACTED]

(u) My colleagues and I are convinced that Said, when allowed to return to Yemen, will lead a peaceful and productive life surrounded by family and friends. He is a decent man and he represents no danger to America or American interests. We therefore respectfully ask that you allow him to return home to his family.

Sincerely yours,

Marc D. Falkoff
Marc D. Falkoff