

UNCLASSIFIED / FOUO

Detainee 977 testimony on behalf of his father Detainee 1009

My father was with the Mugagdide when I was a little boy during the Russian invasion. At that time there were a lot of disputes and he was forced to join the HIG. My father had a stroke about 15-17 years ago. Because of his stroke he lost the ability to walk and was very ill. Because of this, he left behind everything and stayed home and was not involved with the HIG after that and was not involved in anything.

After the Russians were defeated in Afghanistan, there was civil war and a lot of fighting among groups of people in Afghanistan. Because of this, there are a lot of enemies after the Russian war and we had civil war fighting. Our enemies use different tactics by lying about their enemies and the Americans are believing these lies and putting us in prison.

For a year and a half before I was captured, the defense ministry and the interior ministry gathered up all the heavy weapons and turned them in. They collected all the light weapons from the people and put them in a warehouse to be turned over at a later time. Rahim Wardak who was working for the government hired me and put me in charge of guarding the weapons and maintaining control of them for the government. All the serial numbers were recorded with the government. The government provided me with 50 people to guard the weapons and the government paid these people to guard the weapons. All of this area belonged to the government. Everyday they give pay, money, and food to guard the weapons and then the American soldiers arrested me. After 25 days, they arrested my father.

When I was arrested, my father went to see Kazai to get my release but was captured before he could.

I know 100% that the Tajik people provided wrong information about us, we have no problems with Americans. The Tajik people have a dispute with the Pastoons. I am Pastoon. I am 100% certain that the Tajik people provided false information resulting in my arrest and my fathers arrest.

If anyone can provide any proof that I did anything against the Kazai government, or American soldiers, I would take the worst punishment.

My father is a sick, old man and cannot even move around. The only times he goes out is to see the doctor, how could he possibly be guilty of any allegations.

All allegations are nothing but a personal dispute with our personal enemies and are not true.

Rahim Wardak tried to get my release but was not successful. He told my father he would work hard to get me released but the power belongs to the Tajik people and Wardak is not Tajik.

I was with the HIG until 1996 then after that I had no connection with the HIG.

Exhibit D-b

122A

UNCLASSIFIED / FOUO

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Recorder presented Exhibits R-2 and R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

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

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: I see by the Detainee Election Form that you have elected to participate today as evidenced by your being here. I also see that you wish to make an oral statement, which we will provide you that opportunity in just a minute. Additionally, I see you requested three witnesses, two of which the Tribunal approved. Basically, these two witnesses we deemed relevant to your status as an Enemy Combatant. The Department of State was contacted on the ninth of November with follow up attempts on the 22nd and the 30th of November. As of today the Department of State has received no response from Afghanistan as to the status of these witness requests. Therefore, I have made the determination that based on the attempt to contact and the lack of response that the witnesses are not reasonably available. I will tell you however if the witness testimony becomes available at a later time, we will make a decision whether to reopen your case or not.

Tribunal President: Zahir Shah, you may now present any evidence you have to the Tribunal and you have assistance of your Personal Representative in doing so. Do you wish to present information to this Tribunal and would you like to make your statement under oath?

Detainee: Yes.

Tribunal President: Recorder, would you please administer the oath?

The Recorder administered the Muslim oath to the Detainee.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

Personal Representative: I'll read each allegation and then you will have time to respond to it as you wish.

Detainee: Okay.

3.a.1. The Detainee is a citizen of Afghanistan and identified as a Hizb-I Islamic (HIG) member, possible as a Deputy Commander.

Detainee: The name of Hizb-I Islamic, I heard for the first time in Bagram when the interrogator was asking me about it. The second time was here in Cuba when they were asking me about this group. In my life, I have never been a member of that group, I did not know anything about that group, and whoever told them, it was a lie. They do not have any proof on me being a member of that group because I don't know of such a group. The only thing I did in Afghanistan was farming. Other than that I did not do anything else in the country.

3.a.2. The Detainee admits to keeping a Kalashnikov type weapon in his home.

Detainee: Yes, I do have a Kalashnikov in my house. It was government issued so the government knew about it. I did give the name of the person who gave it to me. His name was Commander Samil (ph). When he died his brother became the Commander, he knew about it. When the new government came, the Karzai government, they knew about it because you have to report to the government how many guns you have in your possession and give them the numbers. I was keeping it for my personal safety because we do have enemies in our area.

3.a.3. The Detainee was captured in his home in Afghanistan by United States forces conducting Weapons Cache Recovery Operations.

Detainee: I was in my house in Afghanistan and the American forces, I don't what they were doing or why they were there, came to my house and wanted to search it. I let them in and they saw those weapons hanging on the wall and they got them. They asked me to search the rooms in the house and they wanted the keys for all the boxes in the house. I went and got the keys, which actually in the fifth accusation you say that I had the keys to all the buildings in the compound. I went and got those keys from the females. They opened each box and there were only female clothes in the boxes. They searched the whole house and did not find anything else.

3.a.4. Weapons including AK-47s, RPGs, and a 107mm recoilless rifle were discovered in Detainee's home by the United States forces.

Detainee: They did not find any RPGs in my house. I don't know who said that. It's a lie and I'm sure they did not find anything in my house like that. There were two AK-47s, which were hanging on the wall. I told them that I got them from the Commander and that

UNCLASSIFIED//FOUO

the government knew about them. They did find my BB gun, which I use for hunting and a shotgun and they found my old antique gun that didn't even fire. So they found those other three guns that I had paid for because it's my hobby. These were my personal belongings and never in Afghanistan were these weapons on the list of weapons that the government didn't want people to keep. Everyone has these guns. People buy them in the street or at the bazaar or any kind of store. So these weren't actually weapons nobody has and they had never seen them. They were my personal property, I paid for them, and I want them back. If they cannot give me the weapons, I want the money for them.

3.a.5. The Detainee had keys to all the buildings in the compound.

Detainee: Those keys were for the house. I have rooms and each room has a box where the kids and the females keep their clothing and they keep them locked. They wanted to search those boxes and asked if I had the keys to open them. I went to the females and got the keys for each box and opened each one. They didn't find anything else. There were only female clothes. In the country it's bad for the people to go and search the female boxes of clothes. Even in the Russian's time they never did that type of thing but the Americans want to search them. I said no problem and opened them. After the search the handcuffed me and took me to Bagram. I asked them what I did wrong or what did they find that made them put me in prison. I never got an answer. The only thing they got were the weapons that were hanging on the wall, which I told them about.

Personal Representative: Zahir, is there anything else you would like to tell the Tribunal about?

Detainee: First of all I want to talk about the weapons that they took from my house, which I paid for. One was an antique and the other was for hunting. They were allowed at that time in the country and they are still allowed. I'm sure the government hasn't issued a band or such weapons. I paid for it and they took it and I want it. If they cannot give me the weapons, because they got lost somewhere, then I want the money for them because they were my personal property. Next, I want to tell you why I think I was captured. I think they captured me because they had wrong information because we do have a personal dispute in the area. There were two people that fought in village and my brother was a middleman and he paid to release one of these people. He owed him some money. In the end he said the person finally went to the new government and got a job as a soldier and asked my brother for the money and my brother could not pay him. So he told my brother that he would do bad things to him and that he would make sure that he made problems for him through the Americans. He would say something bad to the Americans about him. I'm sure this is the problem but actually made something on my family because at the end when the Americans showed up at my house, my brother still owed seven thousand Afghani. So we think that maybe this is the person who the false statement to the Americans causing this trouble. In Bagram I asked the interrogator if that was the person who gave him the wrong information but he didn't give me an answer. I asked them in Bagram what I had done wrong because you can go to my village where they know me and know that I have never done any things like what you say I have done. You can ask any person and they will testify that I'm not that kind of person. They never gave me an

ISN# 1010
Enclosure (3)
Page 3 of 9

UNCLASSIFIED//FOUO

000125

answer and brought me to Cuba. I told the interrogator here in Cuba about the two people who were fighting and asked if either of them gave information about me. The interrogator actually said that one was Abdulla Kafar (ph) and the second person was Kauliki (ph). She told me that they do have information from Kauliki (ph) and that he said something about me that lead to my being captured.

Tribunal President: Does that conclude your statement?

Detainee: That's all I was going to say and I don't have anything else to say. If anyone has questions, I can answer.

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

Personal Representative: Yes ma'am just two.

Personal Representative's questions

Q. The Kalashnikovs how long had you had the Kalashnikov?

A. Around ten years, maybe more than that. We do have enemies in the tribe and we were keeping those for our personal safety.

Q. You said Commander Samil (ph) is the one who have you those Kalashnikovs?

A. Commander Samil (ph) gave them to my brother and since we live together they were in the house with me for a long time. The commander gave them to us for our personal safety and than he died so we went to his brother and told him about the weapons to see he wanted them back and he said to keep them for our personal safety. When the Karzai government came I asked him again should we go and tell the new government because you have to report and they were looking to see who had AK-47s in their houses. He gave me the name of the person who was in charge in the area so I could report to him. I went to that person and I told his brother that we had two AK-47s in our house and he no problem and to keep it for our personal safety.

Q. What was the brother's name?

A. Noorullah (ph) was in charge when I got captured. The government made him in charge of security.

Q. Noorullah (ph) was that one of the witnesses that you had originally requested?

A. Yes I requested him. I told my Personal Representative that he knew about it because we reported it.

UNCLASSIFIED//FOUO

Q. The person who gave your brother the AK-47, you say his name was Samil and that he was dead. Who was Samil's brother?

A. Sakadat (ph).

Q. That was another witness that you requested, is that right?

A. Yes. Just because of the weapons. My Personal Representative asked me whose weapons they were. I said that these are the people who can come and testify.

Personal Representative: That's all the questions I have Madame President.

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

Recorder: No ma'am.

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

Tribunal Member's questions

Q. You are a native of Afghanistan?

A. Yes.

Q. Have you ever left Afghanistan?

A. I spent all of my life in Afghanistan. One time under the Taliban government I was trying to go Iran because there was no work. I went with the smugglers through the "Back door." The Iranian government captured us and sent back to our country. After that I decided not to go anywhere else and stayed in Afghanistan the whole time. The Americans asked me to tell the truth and not to lie and that's why I told them about this trip. Nobody knew about it. I told them that I had been living in Jalalabad, which is a city of Afghanistan. I told them the truth about where I have the whole time and I'm thinking that's the reason I'm here, for telling the truth. Otherwise, if I had lied in the first place they would have sent me home. But I didn't want to lie. I told the truth that time and I'm telling the truth now.

Q. You seem like a smart man. What's the highest grade level you've completed?

A. I don't know if I look like a smart man but I'm not. I've been to school. I don't even know how to write. In Cuba, I'm learning how to read the Koran. I'm trying to learn how to read my name and letters. I've never been to school.

Q. Did you do anything besides farming?

UNCLASSIFIED//FOUO

- A. The only thing I did was farming. On the side I'd do some labor like building rooms. Mostly I was a farmer.
- Q. How many rooms in your house?
- A. I had to count to remember because it's been a long time but there were 12. Maybe more or less now, and I'm only counting the rooms and not the bathroom or shower.
- Q. How long had you lived there?
- A. We lived in the village and there wasn't enough room in that house so we moved from the village to live outside of it. I don't remember but my father was telling me that it was about 10 or 20 years that we had been in that house. In the house before, where there wasn't enough room, we keep forever because my father built that house.
- Q. Just prior to your capture, how many people lived in that house?
- A. We all lived together. My six brothers and my parents all live in the same house.
- Q. So how many people total?
- A. It's hard to tell because I have six brothers and they all were married. Just 14 are elders, six brothers and their wives and my parents and each one has kids and I don't even remember their names any more.
- Q. When you say that you had fighting others in that area, did you mean fighting them using weapons? You had an enemy in that area. Who had you been fighting?
- A. It's about 20 years old. This dispute was with my cousin who lives far away. His uncle killed one of his family members and he killed his uncle. That's why we didn't like them. They were always getting guns to protect their family and we were just protecting our family from each other.
- Q. In your lifetime, have you used a Kalashnikov or another weapon against somebody?
- A. No. Those are the only two people who got killed in the dispute in the beginning. After that no one else was killed on either side. So I never shot anyone and nobody shot at us. The only thing I did was hunting with my BB gun. Because the tribe elders got together and talked with both families and that's why for ten years we have not fired at each other but we are still protecting ourselves from each other.
- Q. In the 10 to 12 years you lived in that house, did you ever see anyone bring an RPG in there?

UNCLASSIFIED//FOUO

A. No. What are we going to do with RPGs?

Q. What was Commander Samil a commander of?

A. Samil, is my brother's friend and he's not living in my area or district. He was living in his own separate province. My brother has a friendship with him and he was the commander at that time. That's why he gave the weapons to my brother. It's been almost six or seven years since he died. Personally, I don't know him but my brother was his friend.

Q. Was he a commander for the Taliban?

A. No, he wasn't Taliban. He was some other party, Jamat (ph) which was like (inaudible) Northern Alliance commander. It wasn't with the Taliban. It's been a long time and we didn't have a friendship. I didn't know him personally. My brother knew him so I don't really know what he was doing.

Tribunal President's questions

Q. Can you tell us when you were captured?

A. I don't know the day or year because we don't track the days and years. But it was lunchtime and we were eating lunch, when the Americans came to the house. It was the daytime and we were eating lunch.

Q. Okay, let's approach this from a different angle. How long have you been here?

A. I don't know exactly how long I've been here but this was just my second Ramadan in Cuba, which was a month and a half ago.

Q. What did you farm on your farm?

A. We grew wheat, corn, vegetables, and watermelons.

Q. What did you do with what you produced on your farm?

A. The wheat we were growing for ourselves. But the vegetables and fruit we were selling those because people would come from other areas to buy it.

Q. Would they come to you or did you take them to the market?

A. They would come and buy it on the spot.

Q. Did you have any association at all with any humanitarian organizations?

ISN# 1010
Enclosure (3)
Page 7 of 9

UNCLASSIFIED//FOUO

000129

UNCLASSIFIED//FOUO

A. What kind of organization? Like a U.N. organization?

Q. Any kind of humanitarian organization that helped other people.

A. No, I've never been a member of a group like that and nobody ever came to me given me any information.

Q. Okay, how about political parties? Did you belong to any political parties?

A. No, I don't know any political parties. I was just a farmer and plus I'm not educated so I don't know how to talk and meet with people. Here in Cuba people have taught me how to pray right. Back home I was doing farming and that was it.

Q. How did you feel about the new government?

A. We were happy for the new government because they were rebuilding and there was peace. We were tired of all those things before so we were happy for it. It's just that somebody gave the wrong information to the Americans and I've been here the whole time and I don't know what's going on in the country now.

Q. What about your brothers? Did they all feel pretty much like you did or did some of them not like what was going on?

A. They were all happy for it also. Plus the people that were not happy with the government left the area. We were happy and we stayed in the village.

Tribunal President: I want to thank you for participating in this Tribunal today. Zahir Shah, do you have any other thing that you would like to present to this Tribunal today?

Detainee: The only concern I have is about those personal belongings, those weapons that I paid for and they took from me. I'm sure they will send me home one day but when I go home, will I get those back? If I'm not getting them back then I want the money back for those weapons.

Tribunal President: I don't have an answer for that. I'm assuming that you will have to take that up them when that time does come.

Detainee: Who should I ask then?

Tribunal President: I assume you can raise the questions to the people here. Not knowing the particulars, I can't help with where that's going to come from.

Detainee: People were saying that you could ask the Tribunal if you have any questions or problems.

UNCLASSIFIED//FOUO

Tribunal President: Unfortunately, the only question that we're involved with is the question of your enemy combatant status. Everything else outside of that unfortunately we don't have an answer to.

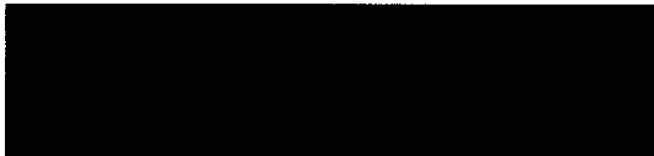
Detainee: Okay. If you can't help me then I will wait and see and ask somebody else at the time when I'm going home if they can help. If not I'll just forget about it.

The Tribunal President confirmed with the Personal Representative that he had no further evidence and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

ISN# 1010
Enclosure (3)
Page 9 of 9

UNCLASSIFIED//FOUO

000131