

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL KHALED AHMED SAHLEH)
AL BEDANI, *et al.*)
Petitioners,)
v.) Civil Action No. 04-CV-1194 (HHK)
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:

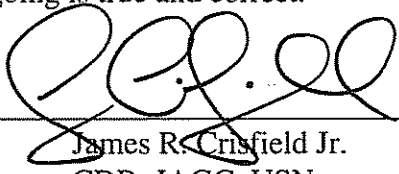
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each 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 Abdul Khaled Ahmed Sahleh Al Bedani 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: 1 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser:
30 September 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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29 Sep 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 #8 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 voluntarily elected not to participate in 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-3 and 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. Although the Tribunal expressed its opinion that the FBI's letter was "without merit" they do not have the authority to override an originating agency's determination that certain information should be withheld from the Tribunal. The decision to withhold information from a Tribunal is left solely to the discretion of the originating agency by reference (b). The Tribunal's concern about the redactions is especially mystifying since it is apparent from a review of the documents that the only information redacted by the FBI was the names of individuals participating in the interrogations.

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.

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

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

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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

22 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.

A handwritten signature in black ink, appearing to read "David L. Taylor".

DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) (3) and (4).

(U) TRIBUNAL PANEL: #8

(U) ISN#: [REDACTED]

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) - NA
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 20 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 20 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, 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 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 evidence presented to the Tribunal by the Recorder indicated that the Detainee stated that he traveled to Afghanistan for military training so that he could participate in Jihad. He stayed in bunkers during the bombing of the Tora Bora region and was subsequently wounded. The Detainee was picked up by the local Afghans and turned in to the Northern Alliance. The Detainee chose not to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made no statement. The personal representative verified that the linguist was of the correct dialect to translate the CSRT information to the Detainee. However, based on the Detainee's silence, the Personal Representative had to infer that the Detainee did not wish to participate.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-14.
- b. Testimony of the following persons: None
- c. Statement from the Detainee: None

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

The Detainee requested no witnesses and requested no 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:

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.

The Tribunal found the following unclassified evidence unpersuasive in making its determinations: Exhibit R-2, a request from the Federal Bureau of Investigation to redact certain information from its recorded interview concerning the Detainee 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. To be more specific, the mere declaration that "inappropriate" release of the information "could damage the national security of the United States and compromise ongoing FBI investigations," without a discussion of the underlying information and the reasons why its release to the Tribunal would be damaging to U.S. national security or compromising to current future FBI investigations, was not helpful to the Tribunal. The Tribunal therefore found Exhibit R-2 to be without merit.

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

6. Consultations with the CSRT Legal Advisor

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

7. Conclusions of the Tribunal

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

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings, but chose not to participate in the Tribunal process, as indicated in Exhibit D-a. The Tribunal questioned the Personal Representative closely on this matter and was satisfied that the Personal Representative had made every effort to ensure that the Detainee had made an informed

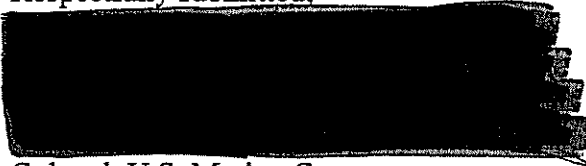
decision. As stated previously, the Personal Representative had to infer that the Detainee chose not to participate in the process based on his silence and complete lack of cooperation.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Marine Corps
Tribunal President

DETAINEE ELECTION FORM

Date: 18Sep04

Start Time: 10:35

End Time: 10:47
in

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(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:

No responses to any questions. Read Notice to Detainees and Summary of Unclassified Evidence.

Personal Representative: [REDACTED]

FOUO

Recorder Exhibit List

For

ISN [REDACTED]

#	Title	Classification
R-1	Unclassified Summary	UNCLASSIFIED
R-2	FBI Request for Redaction of National Security Information	UNCLASSIFIED
R-3	FBI 302 dtd 7 Oct 02	FOUO//LES
R-4	CITF FM 40 dtd 4 May 04	FOUO//LES
R-5	IIR 2 340 6543 02	SECRET
R-6	IIR 2 340 6528 02	SECRET
R-7	JTF GTMO Regional Team Assessment 17 Mar 04	SECRET//NOFORN
R-8	JTF GTMO Baseball Card: Detainee [REDACTED] dtd 27 May 04	SECRET//NOFORN
R-9	Enemy Combatant Review Checklist: Detainee [REDACTED]	SECRET//NOFORN
R-10	Knowledgeability Brief 121257Z May 02	SECRET
R-11	JTF GTMO MFR dtd 2 Nov 02	SECRET
R-12	Analyst Support Package: Detainee [REDACTED] dtd 16 Sep 04	SECRET//NOFORN
R-13	CITF CDR Memorandum 03 Jun 04	SECRET//NOFORN
R-14	Analyst Support Package: Detainee [REDACTED] dtd 19 Aug 04	SECRET//NOFORN

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (16 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL BEDANI, Abdul Khaled Ahmed Sahleh

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida.

a. The detainee is associated with al Qaida:

1. The detainee is a Saudi who traveled to Kabul, Afghanistan in early 2001. He traveled to Kabul via Quetta, Pakistan and Kandahar, Afghanistan.
2. The detainee was recruited by a known al Qaida/Taliban recruiter to travel to Afghanistan for training for participation in Jihad.
3. The detainee states that he went to Afghanistan to receive military training.
4. The detainee was in a guesthouse in Kabul awaiting training when he heard of attacks on America and possibility of retaliation and decided to leave Afghanistan immediately.
5. The detainee stayed in various bunkers during the bombing of the Tora Bora region. While in these bunkers, the detainee was in the presence of personnel armed with rifles and rocket propelled grenades (RPGs). Some of these other men engaged in fighting against the Northern Alliance.
6. The detainee was wounded during the bombing in Tora Bora and was then picked up by local Afghans who turned him over to the Northern Alliance.

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b. The detainee participated in military operations against the coalition.

1. Though he denies using any weapons, the detainee admits that he was provided with a rifle while he was in the Tora Bora region.

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Memorandum



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

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:

FD-302 dated 10/07/2002

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

²See Executive Order 12958

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

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

Personal Representative Review of the Record of Proceedings

I acknowledge that on 21 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]
LTC, USAF
[REDACTED]

Signature

21 SEP 04
Date

ISN # [REDACTED]
Enclosure (5)