

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARTIN MUBANGA, <i>et al.</i>)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 04-CV-1144 (RWR)
)	
GEORGE W. BUSH,)	
President of the United States, <i>et al.</i> ,)		
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 Martin Mubanga as of 30 October 2004 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 the detainee's family members and 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.

3. Further Tribunal proceedings have been ordered by the Director, Combatant Status Review Tribunals, and are currently pending in Guantanamo Bay, Cuba.

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

Dated: 30 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0180
5 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

Encl: (1) CDR J. R. Crisfield ltr of 5 October 2004 (w/enclosures)

1. The record of proceedings for the subject detainee is returned to Tribunal Panel #5. The Tribunal President is directed to make a determination of the reasonable availability of the three witnesses requested by the detainee on his Detainee Election Form. If these witnesses are not reasonably available and cannot provide evidence as an alternative to live testimony, then the Tribunal will return their original report, along with a statement from the President regarding his determination on reasonable availability, to the Legal Advisor for review in accordance with reference (b). If any of the witnesses are reasonably available or can provide evidence as an alternative to live testimony, then the Tribunal will re-convene to consider their testimony or other evidence, deliberate, and vote on whether the detainee shall continue to be classified as an enemy combatant.

2. If any members of Tribunal Panel 5 are not available to attend further proceedings, the OARDEC Forward Commander is authorized to assign new members to the Panel for purposes of this Tribunal provided that such new members have been previously assigned to a Tribunal panel by the Director. Any Tribunal members who were not present for the original Tribunal proceedings will listen to the audiotapes of those proceedings prior to deliberation and voting.

3. As a separate matter, the Tribunal will include an explanation of what additional information it requested from the Recorder; whether additional information was procured by the Recorder; and whether this information was considered by the Tribunal.

J. M. McGARRAH
RADM, CEC, USN

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5 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 #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, was present for the unclassified portions of the Tribunal, and made a statement through his Personal Representative.
- 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-7, R-8 and R-17 was redacted. The FBI properly certified in exhibit R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant. Additionally, on its own accord, the Tribunal recessed and requested additional information from the Recorder. Unfortunately, there is no further indication in the Record of what information was requested and whether or not it was provided. The Tribunal Decision Report should answer the questions of what additional information was requested; what additional information, if any, was procured by the Recorder; and what additional information, if any, was considered by the Tribunal.
- d. The Tribunal's handling of the detainee's witness requests is confusing. The Detainee Election Form indicates that the detainee requested the production of three witnesses: his sister, brother, and aunt. The detainee claimed that his sister and aunt would testify that he traveled to Zambia due to the ill health of his uncle. He claimed that his brother would also testify to his reason for traveling to Zambia; and could also testify to sending a valid passport to the detainee; and that the detainee traveled to Pakistan in order to fight in Kashmir, not Afghanistan.

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

The Tribunal President's decision memo regarding the witness requests only refers to the requests for the detainee's sister and brother. The President determined that the detainee's reasons for traveling to Zambia and Pakistan were not relevant to the Tribunal's decision and therefore denied the request. The request for his aunt and the fact that the brother would also testify that he sent the detainee a valid passport are not mentioned in the decision memo.

The summary of Tribunal rulings on witness requests, contained in paragraph 4 of enclosure (1) of the Tribunal Decision Report, only compounds the confusion over the witness requests. The paragraph states that the President's reason for denying the request for the detainee's brother and sister was that they were not reasonably available. This is not accurate. The President never even reached the issue of whether or not the brother and sister were reasonably available because he determined that their testimony was not relevant. The summary of Tribunal rulings also confuses the witness request for the aunt, who had substantive evidence to present to the Tribunal, with one of the detainee's sisters, who was not requested as a witness but is mentioned in the Detainee Election Form as someone who can help locate the detainee's brother. The Tribunal's confusion is understandable, but it calls into question the accuracy of the President's decisions.

Besides the Tribunal's confusion, the President's stated reason for denying the witnesses was erroneous. First, the President did not consider the detainee's proffer that his brother would testify that he provided a valid passport to the detainee. Assuming as we must that this proffer is accurate, then this testimony would tend to rebut the Government's assertion that the detainee "traveled with forged documents provided by a facilitator." This testimony would therefore be relevant. Additionally, the statements from the three witnesses as to the detainee's reasons for traveling to Zambia and Pakistan would also be relevant. While a detainee's motive for joining or supporting al Qaeda is irrelevant to a determination of their status as an enemy combatant, a detainee's reasons for traveling to a country could be relevant to determining what they did there once they arrived. In other words, if the detainee had claimed that he was forced to join al Qaeda, then his motive would be irrelevant to the Tribunal's purpose. In this case, however, the detainee claimed that he was not a member of al Qaeda. Under these circumstances, the detainee's reasons for traveling to various countries was relevant. If the detainee's motive for traveling was to do something other than join or support al Qaeda, that evidence could have some tendency, however slight, to make it less likely that the detainee joined or supported al Qaeda.

The detainee made no requests for other evidence.

- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

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

- 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 of the Tribunal are not sufficient and corrective action, as described below, is required.
3. I recommend that the Record of Proceedings be returned to the Tribunal President with direction to make a determination of the reasonable availability of the three witnesses requested by the detainee as listed on the Detainee Election Form. If the witnesses are not reasonably available, then the Tribunal should return their original report, along with a statement from the President regarding his determination on reasonable availability, to the Legal Advisor. If any of the witnesses are reasonably available, then the Tribunal should re-convene to consider those witnesses' testimony. If any members of the Tribunal panel were not present for the original Tribunal proceedings they should listen to the audiotapes of those proceedings prior to deliberations and voting.



James R. Crisfield Jr.
CDR, JAGC, USN

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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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

28 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: #5 _____

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #5 of 17 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/Witness Testimony (U)
(4) (U) Copies of Documentary Evidence Presented (S//NF//ORCON))
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 25 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 25 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 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]
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #5
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 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 evidence presented to the Tribunal by the Recorder indicated that the detainee is a member of al-Qaida. The summary of evidence (exhibit R-1) stated that the detainee joined al-Qaida in October 2000 after arriving in Pakistan from the UK. The summary of evidence alleged that the detainee engaged in hostilities against the United States and it's coalition partners. The summary of evidence further alleged that the detainee participated in military training at Al-Farouq and other terrorist associated schools for advanced training in Afghanistan. The summary of evidence also indicated that the detainee trained with small arms, crew served weapons and rocket propelled grenades (RPG). The summary of evidence further alleged that the detainee participated in actual combat operations against the Northern Alliance while serving on the front lines in and around Kabul, Afghanistan. The summary of evidence stated that the detainee traveled to Zambia in order to prepare for surveillance operations or possible terrorist attacks against 33 Jewish Organizations based in New York City. The summary of evidence stated that the detainee was captured in Zambia by Zambian Intelligence authorities and turned over to United States Forces. The detainee chose to participate in the Tribunal process. He called three witnesses, presented two letters from two witnesses, requested no unclassified or classified documents be produced, and presented a sworn, written statement through his Personal Representative. In his written statement, read aloud, to the Tribunal by the Personal Representative, the detainee retracted every statement ever made to interrogators, Zambian, British and US authorities. The detainee did not answer questions posed by the Tribunal. After consideration of the unclassified and classified evidence, the Tribunal recessed to permit the recorder time to gather additional evidence requested by the Tribunal. After all matters were considered, the preponderance of evidence clearly showed that the detainee has been properly classified as an Enemy Combatant. The Tribunal President's evidentiary and witness rulings are explained below.

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3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, R-1 through R-19
- b. Testimony of the following persons: written statement by [REDACTED] and written statement of [REDACTED]
- c. Sworn statement of the detainee

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

The Detainee requested three witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED] (aunt)	none rendered-admin error	no*
[REDACTED] (sister)	not reasonably available	no*
[REDACTED] (brother)	not reasonably available	no*

* The detainee requested three witnesses, however, the Tribunal President was presented a request for [REDACTED] and [REDACTED] from the detainee's Personal Representative. If the request for Mrs. [REDACTED] were presented to the Tribunal President as a witness, and not as a person that would help find another witness, the Tribunal President would have denied the request. The Tribunal President believed the request was not relevant in determining the detainee's enemy combatant status.

The Detainee requested no additional evidence be provided.

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 through R-19 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 and R-3 are FBI Redaction Requests and provided no usable evidence. Accordingly, the Tribunal had to rely on the detainee's sworn testimony, the witnesses' written testimony and looked to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn written testimony and the witnesses written testimony. A summarized

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ISN # [REDACTED]
Enclosure (1)
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transcript of the detainee's sworn written testimony as read aloud by the Personal Representative is attached as CSRT Decision Report Enclosure (3). In sum, the Personal Representative read the detainee's written statement and the Tribunal read the two written statements submitted by the detainee's sisters. The Tribunal recessed to read the written statements and reconvened the unclassified session. After reading all the unclassified evidence presented to the Tribunal, the detainee was given the opportunity to make a verbal statement. The detainee made his verbal statement through his Personal Representative and the detainee's statement recanted all statements previously made to interrogators and authorities. The detainee stated in his written statement that he made previous statements under physical and emotional duress and asked the Tribunal to disregard those statements. After the Personal Representative read the detainee's statement, a Tribunal Member asked one question which the detainee declined to answer. Although the Tribunal did not find the detainee's testimony persuasive regarding the allegations that he was a member of al-Qaida, the Tribunal turned to classified sources for further clarification.

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.
- c. The detainee is properly classified as an enemy combatant. Specifically, he is a member of al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

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ISN # [REDACTED]
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Respectfully submitted,

[REDACTED] Colonel, USAF
Tribunal President

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ISN # [REDACTED]
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Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the detainee stated, "yes."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process the detainee said, "no."

The Tribunal President stated: You may now present any evidence you have to the Tribunal. Your Personal Representative may assist you if you wish. It is my understanding that you wish him [Personal Representative] to read a statement on your behalf, is that correct? [The Detainee stated]: That is correct.

The Personal Representative read the following hand written statement by the Detainee:

Since having been picked up by the Zambian authorities on the instructions of the American government. I have been denied my rights physically and mentally. Intimidated and abused. From the time I was being questioned by the Zambian, Americans and British in Africa denied legal rights abducted and brought to Guantanamo Bay. Since arriving here the intimidation verbal abuse racial abuse has been forth coming. For the Americans most intensely on 31st July 2003 from the direction of a Spanish American MP and on 15 and 22 June 04 by American interrogators. Only now today 25/9/04 have I realized that I must over come my fears because I see now that the Americans will not and have not allowed me access to my real lawyers who are taking instructions from my sisters.

I see also that they will not allow me to have a fair trial and as such I see and know that the duress and mistreatment that I am incurring shall not stop until they (the American government) get the result they want.

I am, however, no longer afraid and no longer care or fear for the consequences and I feel somewhat strengthened by the fact that my sisters have got a jist of the truth and are not afraid to speak and have spoke. As such it gives me the strength to do what I know now is time to do. I retract everything I ever said from the time the Zambian authorities picked me up on orders from the Americans until now the 25-9-04. Because of the fact it was obtained from me by excessive duress.

The Tribunal President stated: At this time I would ask that you [detainee] verify everything your Personal Representative has read in your behalf is true to the best of your knowledge. The Detainee replied: "Yes."

The Tribunal President asked the Detainee: Do you [detainee] have any other comments or statements you would like to make to this Tribunal? The Detainee replied: "No."

ISN # [REDACTED]

Enclosure (3)

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Summarized Answers in Response to Questions by the Tribunal Members

Q. Why did you [detainee] travel to Afghanistan?

[The Detainee did not answer the question.]

The Tribunal President stated: He [detainee] has the right not to answer any questions if he chooses not to do so.

The Tribunal President asked the Detainee: Would you [detainee] like to answer questions from the board or would you choose not to do so? The Detainee replied: You [Tribunal] denied me access to witnesses who know the reason I went to Africa. Now you [Tribunal] say that or they [US government] say that I went for such and such reasons, where did they [US government] obtain this information? I have people to verify what was spoken prior to my arrival in Africa as to why I went there. So, you [Tribunal] want answers to something but yet you won't let me (inaudible: get or give) answers to something else. So, I wish not to say anything other than what has been stated by my Representative.

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

A. No.

AUTHENTICATION

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

[Redacted]
Col, USAF
Tribunal President

ISN # [Redacted]
Enclosure (3)
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DETAINEE ELECTION FORMDate: 24 SEP 04Start Time: 1020End Time: 1215

ISN#: _____

Personal Representative: [REDACTED] LTC, US ARMY
(Name/Rank)Translator Required? NO Language? ENGLISHCSRT 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 elected to participate. He will provide an oral statement through the PR. He will likely comment on the individual points as well. His English is good, but very Africanized and he speaks rapidly (likely the reason the PR will speak from notes). Witnesses requested are his sister, brother and aunt. [REDACTED] at [REDACTED]
[REDACTED] can provide information as to why [REDACTED] went to Zambia. His brother [REDACTED] whose address can be obtained from his other sister [REDACTED] at [REDACTED]
can provide background on why [REDACTED] went to Pakistan (to fight in Kashmir), he knows about sending him his real passport (he did not travel on forged documents), and also knows the reason he went to Zambia (uncles health). His aunt, Mrs. [REDACTED] would have to be reached through [REDACTED]
[REDACTED] can testify as to why he went to Zambia.

[REDACTED]

[REDACTED]

[REDACTED]

Personal Representative: [REDACTED]

MEMO FOR RECORD

TO: PR-52

SUBJECT: WITNESS REQUEST FROM ISN # [REDACTED]

DATE: 24 SEP 2004 ??

ISN # [REDACTED] has requested two witnesses. The Detainee requested testimony from his sister, [REDACTED] and his brother, [REDACTED]. He stated that they would testify as to what they thought his reasons were for traveling to Zambia (his uncle's health) and to Pakistan (to fight in Kashmir not in Afghanistan). It is my determination that what his family believed were his reasons that he traveled to these locations is not relevant to this Tribunal process so the requests for these witnesses are denied.

[REDACTED]
[REDACTED], Colonel, USAF
Tribunal President

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: (U) Summary of Evidence for Combatant Status Review Tribunal - MUBANGA,
Martin

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 a member of al Qaida and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is a member of al Qaida:
 1. The detainee joined al Qaida in October 2000 after arriving in Pakistan.
 2. The detainee visited an al Qaida house in Kandahar, Afghanistan where he observed the 11 September 2001 attacks on television.
 - b. The detainee engaged in hostilities against the United States or its coalition partners:
 1. The detainee received weapons training on the AK-47, the PK, and the RPG at the al Farouq training camp in Afghanistan.
 2. The detainee also received urban warfare training at the al Farouq camp.
 3. The detainee personally observed Usama Bin Laden on at least one occasion while the detainee was at the al Farouq camp.
 4. After completing his training at al Farouq, the detainee served on the front lines near Kabul, Afghanistan where he was armed with an AK-47.
 5. The detainee stated that his position received fire from Northern Alliance forces during his time on the front lines.

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Exhibit R-1

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6. The detainee arrived in this area in May 2001.
 7. The detainee then received additional training before being sent to Kandahar in October 2001 to defend against allied incursions.
 8. After his service on the lines, the detainee traveled to Zambia.
 9. The detainee undertook this travel in December 2001 and traveled with forged documents provided by a facilitator
 10. The detainee stated that he was tasked to look into a list of 33 largely New York-based Jewish organizations.
 11. The detainee stated that he received instructions to carry out violence against one, if not all, of the groups listed in the aforementioned list.
 12. In March 2002, the detainee planned to travel to the United States from Zambia.
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.

Memorandum



To : Department of Defense Date 09/22/2004
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 03/21/2003
FD-302 dated 05/31/2003

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, 09/22/2004

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

Memorandum



To : Department of Defense Date 09/24/2004
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 03/06/2003
FD-302 dated 04/14/2003

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

²See Executive Order 12958

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Exhibit R-3

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/24/2004

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

STATEMENT OF [REDACTED]

I, [REDACTED] of [REDACTED]

[REDACTED] will say as follows:-

1. My date of birth is the [REDACTED] 1965 and I am a banking administrator who is currently unemployed. I am a British Citizen but was born in Luanshya, Zambia. My parents both died in Zambia some time ago and I have one younger sister and two younger brothers. The second eldest of my siblings is Martin Katyoka Mubanga. Like me he was born in Zambia but is a British Citizen. Martin's date of birth is the [REDACTED] 1972. He has had various occupations but at the time he left the country in October 2000 he was a motorbike courier. He was not married and had converted to Islam in the mid-1990's. In October 2000 he came to say goodbye to me and said he was going to Pakistan to stay with friends and go to Islamic School there. He had converted to Islam in the mid-1990's although we were brought up as Catholic. I am a staunch Catholic so we disagreed about his conversion. He was a bit rootless and Islam gave him a sense of identity. I did

Exhibit R4

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not hear from him again until January this year although I believe he may have phoned my other brother and sister.

2. In January 2002 I visited Zambia intending to be there for about six to eight weeks to sort out some family affairs. I was surprised to receive a phone call first from an aunt telling me Martin was coming to Zambia and then from Martin himself asking him to meet me at a particular place in Lusaka. However I went with my cousin to meet him and we took him back to my cousin's place to stay. The following day my partner called me from London to tell me that a report had appeared in the Sunday Times regarding Martin being captured and held in Afghanistan awaiting trial. I attach a copy of this article as Exhibit "CLM1". The article was faxed to me and I showed it to Martin and he said he had lost his British Passport in Pakistan and believed that someone else must be using his passport.

3. We had a discussion about it in my cousin's house and decided that the best course of action would be for Martin to leave Lusaka and to go and visit an aunt in the north until any fuss had died down. Martin left after two days.

However the Zambian Intelligence Service got to hear about it because my cousin told a friend who had links with an Intelligence Officer. Some Intelligence Officers came to question me and said they wanted to take Martin into protective custody before the British and the Americans got hold of him. There were then also some phone calls from them and I told them where I believed Martin to be. Then the Intelligence Officers arrived with armed police in a car and instructed me to pack a bag as I might not be returning within 24 hours. They held me in a guest house and then in the local police station and then demanded that I take them to where my brother was.

4. I went with them on a five hour drive to Mufulira in the north, where I took them to my aunt's house. They searched her house and asked her where Martin was. My aunt took them to a block of flats and Martin came out with them after about thirty minutes. They then drove us to another town Kitwe about one hour away.
5. My brother and I were placed in cells in Kitwe Police Station under false charges of motor vehicle theft and left in there

overnight. They then took me to the hotel where they had stayed and questioned me about my passport. They had been told by my cousin's friend that I had a British Passport as well as a Zambian passport but I only had the Zambian passport in my possession. This is because I had sent my British Passport back to the UK as it did not have a Zambian visa in it.

6. We then drove back to Lusaka and I was taken to the same police station. The security officer at the police station in Lusaka said I had to tell them everything I knew because the British authorities were interested in speaking to me. I asked him when they would be here and he said they would be here shortly. However an hour later I was charged with possession of false documents and this was used as a justification to keep me in the cells for the rest of the day and overnight.
7. The following day they released me from the cell and took me to a motel close to the airport. I was held there for two weeks with a local policewoman sharing the room with me. During this time they continued to interrogate me about

Martin. After two weeks they took me to another hotel closer into town and I was held there for a week. I believe Martin was also held in the same motel and hotel but I did not get to speak to him in front of them.

8. On Saturday the 25th March they went to the house where I had been staying and picked up the rest of my stuff which had been packed for me. They drove me to the airport and took me through immigration all the way up to the tarmac and put me on a British Airways flight to Gatwick. They gave me my Zambian passport back but never returned the cell phone which they had confiscated from me. On the way to the airport one of the officers said "We are not your enemy. We are your friends. You don't have to discuss this with anyone."
9. I arrived at Gatwick and went through Immigration. At immigration I was escorted to one side by a Special Branch Officer who introduced himself and showed me an ID Card. He asked me questions about Martin and the last time I saw him and asked me for Martin's address and my sister's and brother's names and addresses and phone numbers.

He asked me if Martin had asked me to do anything for him and if so what and did I give Martin any money or do anything for him. He took away my passport to photocopy it. When he gave me it back he told me that officers from MI5 and MI6 would contact me.

10. I went home and the following day I was telephoned by two officers from MI5, [REDACTED] and [REDACTED] who said they needed to speak to me. They asked for my nearest police station and I told them it was Harlesden. They called me back again and said this was not convenient and would I go to Paddington Green. On the 27th or 28th March I met them at 2pm at Paddington Green Police Station together with my partner who went with me. They questioned me from 2pm until 4pm. They said they wanted a profile of Martin and to establish whether he was actively involved in terrorist activities against any British people in Afghanistan. They asked me questions about my mother and father, when I came to the UK, what schools Martin had attended and what jobs he had. They asked me if he had any problems with the police (the only problems he had had was when he was young for football

hooliganism). I answered all their questions and didn't ask for a lawyer because I didn't want them to think I had anything to hide. After they had finished asking questions my partner and I went for a drink with them in the pub. I have not heard back from them since.

11. I discovered my brother was imprisoned in Guantanamo Bay when I was telephoned by a Sunday Times journalist on about the 30th April and an article subsequently appeared in the Sunday Times saying that my brother had been taken there.
12. I believe the contents of this statement to be true.

SIGNED



DATED

STATEMENT OF [REDACTED]

EXHIBIT CM1

This is the exhibit referred to in the statement of [REDACTED]
referred to as exhibit "EX/CM1"

[REDACTED]

Case Number:

IN THE ROYAL COURTS OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

R

(on the application of [REDACTED] and Martin Mubanga)

-v-

(1) THE SECRETARY OF STATE FOR THE FOREIGN AND
COMMONWEALTH OFFICE

(2) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

WITNESS STATEMENT OF [REDACTED]

I [REDACTED], Receptionist, [REDACTED]

[REDACTED] WILL SAY AS FOLLOWS: -

1. I am the sister of Martin Mubanga who is detained in Guantanamo Bay. There are four brothers and sisters in our family, [REDACTED], who is the oldest, was born in 1965. I was born in 1967, Martin in 1972 and [REDACTED] in 1974. We were all born in Zambia and our father worked for the Government there. He died in 1975 and the family came to the UK in 1976. Our mother was [REDACTED] and we

Exhibit R-5

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were brought up Catholic. We lived in the Wembley area and our mother worked as a AN Assistant Education & Welfare Officer. We went to St Gregory's School in Harrow, apart from a year when I was about 17 when Martin and I went to a Catholic boarding school in Wales. Our mother was working for the Zimco Services Limited and at the time she thought she was going to be posted back to Zambia. The employers changed their mind so we came back to school in London.

2. Martin got GCSEs in Maths, English, History, French and Geography. He left school when he was 16 in about 1988 or 1989. In 1988 our mother died aged 41 of cerebral malaria. It was a very big blow to Martin when she died so young. He was only 16 and [REDACTED] was only 14. [REDACTED] had had a child and had left home so my brothers stayed with me for the next ten years and I looked after them. I have no children myself.
3. Some time after leaving school, Martin did an NVQ in construction at Hendon College. After that he was either unemployed or working as a motorbike courier. He got in to some trouble over a fight and was sent to Feltham Young Offenders Institute for hooliganism. After he was there there was a change in him and he started going to our local mosque in Neasden. He had fallen in love with an Asian Muslim

woman. He wanted to marry her but the relationship broke up shortly before he left the country. This caused him great distress. He left the country at the end of 2000. He told me he was going to India or Pakistan – I did not really understand the difference between the two countries. He had been saving up to go there and was going with a friend. He rang me when he got there to say he had arrived. I thought it was India but it might have been Pakistan. I didn't hear from him again for a long time. He left me a message on the answerphone saying he was okay but he couldn't contact me for a while because he was going to be travelling.

4. On 28 February 2002 I received a letter from Dipesh Gadher of the Sunday Times which is now produced and shown to me marked "KM1". I did not reply to the letter because I knew Martin was in Zambia. Martin had rung my brother [REDACTED] to say he was there and [REDACTED] was also visiting. Some time later I heard [REDACTED] and Martin had been arrested in Zambia at the end of March. I heard about this from [REDACTED] when she came back from Zambia. The first communication we had from Martin was dated 20 April from Guantanamo Bay. This is now produced and shown to me marked "KM2".

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5468
Page 3 of 6

5. Martin has never given any indication to me that he was intending to go to Afghanistan or anywhere else to fight. I do not believe he is a terrorist. Martin writes letters to us from Guantanamo Bay in Jamaican slang. Three of these letters suggest he is suffering ill treatment. Letters dated 24 March 2003, 31 March 2003 and 30 March 2004 are now produced and shown to me marked "KM3" together with a transcript I have made. The first letter of 24 March 2003 which refers to somebody thinking he is some kind of rent boy suggests concern about sexual abuse or the threat of sexual abuse. The second letter dated 31 March 2003 suggests provocation and later bribery using women. The word "radix" means police and the word "butters" means women. The third letter sent recently on 30 March 2004 says "well believe me it ain't all good over here".
6. On 25 March 2004, I accompanied my constituency MP, Sarah Teather, to a meeting with the Foreign Secretary Jack Straw. I wanted to take my solicitor Louise Christian to this meeting but was not allowed to do so. Jack Straw would not say why the British Government had not brought Martin back to this country with the five detainees who were returned. When asked why Martin had been left behind, Jack Straw said that they had intelligence on Martin and that he could not elaborate on this as to do so would jeopardise the safety of the

Page 4 of 6
118 169

source/informant bringing forth a security issue. He added that it was a matter for the Americans. Jack Straw did say that the British Government knew that Martin had been detained in Zambia and did not do anything for him. He said that they had had several reports. Martin has dual nationality and holds both Zambian and British passports. Jack Straw said that because Martin had entered Zambia on a Zambian passport, the British Government couldn't interfere. He said the only time they would be able to intervene was once Martin was taken to a third country. Jack Straw said they he would look into the circumstances of Martin's arrest.

7. My sister [REDACTED] who was with Martin when he was detained is temporarily out of the country. However, she has given my solicitor a witness statement regarding the circumstances of the arrest and this is now produced and shown to me marked "KM4".
8. I believe the contents of this witness statement to be true.

Signed:



Dated:

19/5/04

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5170
Page 5 of 6

Case Number:

IN THE ROYAL COURTS OF JUSTICE

QUEEN'S BENCH DIVISION

THE ADMINISTRATIVE COURT

R

(on the application of [REDACTED] and Martin Mubanga)

-v-

(1) THE SECRETARY OF STATE FOR THE FOREIGN AND
COMMONWEALTH OFFICE

(2) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

EXHIBIT "KM4"

This is the exhibit referred to in the statement of [REDACTED] referred
to as exhibit "KM4"

[REDACTED]

Page 6 of 6
193.

P. 1

SINCE HAVING BEEN PICKED UP
BY THE ZAMBIAN AUTHORITIES ON
~~BESTHAT~~ & THE INSTRUCTIONS OF
THE AMERICAN GOV. I HAVE BEEN
DENIED MY RIGHTS PHYSICALLY &
MENTALLY ~~HAD~~ IN TIMIDATED &
ABUSED: FROM THE TIME I WAS
BEING QUESTIONED BY THE ~~ZAMBI~~
AMERICANS & BRITISH IN AFRICA
DENIED LEGAL RIGHTS ABDUCTED
AN BROUGHT TO GUANTANAMA BAY.

SINCE ARRIVING HERE THE INTIMID
ATION VERBAL ABUSE RACIAL ABUSE
HAS BEEN FORTHCOMING FOR THE
AMERICANS, MOST NOTWITHSTANDIN ENGLISH
-EY ON 31. ST JULY 2003 FROM THE
DIRECTION OF A SPANISH AMERICAN M P
& ON 15 & 22 OF JUNE-04TH & BY AMERICAN
INTERROGATORS. ONLY NOW ~~HA~~ TODAY
25/9/04 HAVE I REALISED THAT
I MUST ~~OF~~ OVERCOME MY FEARS
BECAUSE I SEE NOW THAT THE AMERICA
NS WILL NOT & HAVE NOT ALLOWED
ME ACCESS TO MY REAL LAWYERS
WHO ARE TAKING INSTRUCTIONS

FROM MY SISTERS

I SEE ALSO THAT THEY WILL NOT ALLOW ME TO HAVE A FAIR TRIAL, AND AS SUCH I SEE AN KNOW THAT THE DURESS & MISS TREATMENT THAT I AM INCURRING SHALL NOT STOP UNTIL THEY (THE AMERICAN GOVERNMENT) GET THE RESULT THEY WANT.

I AM HOWEVER NO LONG AFRAID & NO LONGER CARE OR FEAR FOR THE CONSEQUENCES & I FEEL SOME WHAT ~~STRENGTH~~ STRENGTHED BY THE FACT THAT MY SISTERS HAVE GOT A JIST OF THE ~~THE~~ TRUTH & ARE NOT AFRAID TO SPEAK & HAVE SOI SPOKE. AS SUCH IT GIVES ME THE STRENGTH TO DO WHAT I KNOW NOW IS TIME TO, I RETRACT EVERYTHING I EVER SAID FROM THE TIME THE ZAMBIAN AUTHORITIES PICKED ME UP ON ORDER FROM THE AMERICAN UNTIL NOW THE 25-9-04 BECAUSE OF THE FACT THAT IT WAS OBTAINED FROM BY EXCESSIVE DURESS.

UNCLASSIFIED//FOUO

Personal Representative Review of the Record of Proceedings

I acknowledge that on 27 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.

Date: 26 Sep 04

[REDACTED], USA
Personal Representative

ISN # [REDACTED]
Enclosure (5)

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UNCLASSIFIED//FOUO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARTIN MUBANGA, *et al.*)
Petitioners,)
v.) Civil Action No. 04-CV-1144 (RWR)
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:

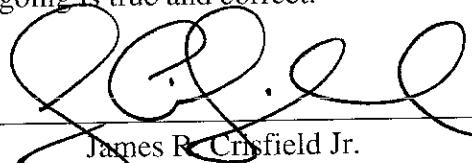
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each 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 additional proceedings before the Combatant Status Review Tribunal related to petitioner Martin Mubanga that are suitable for public release. The Combatant Status Review Tribunal Convening Authority directed these additional proceedings by his order serial 0180 of 5 October 2004. 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: 17 Dec 04



James R. Crisfield Jr.
CDR, JAGC, USN



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

OARDEC/Ser: 0515
16 DEC 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)
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CITF Ft Belvoir

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UNCLASSIFIED

13 Dec 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

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

Ref: (a) Your ltr Ser 0180 of 5 October 2004
(b) Capt [REDACTED] E-Mail memo of 1 December 04

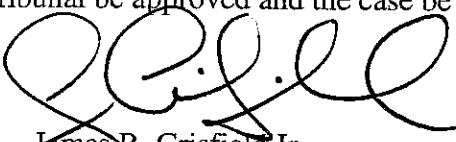
Encl: (1) Appointing Order for Tribunal #15 of 12 October 2004
(2) Col. [REDACTED] ltr of 26 November 2004

1. In response to reference (a), the Combatant Status Review Tribunal attempted to procure the testimony of three witnesses requested by the detainee. Due to the departure of the Tribunal President for the Tribunal that initially heard this case, the case was re-assigned to Panel #15 for further proceedings. As documented in enclosure (2), the Tribunal attempted to contact the three witnesses. Authorities from the United Kingdom, acting on the request of U.S. State Department personnel, located and contacted the three individuals. Unfortunately, those individuals did not respond to the UK authorities regarding their intentions to testify or not. Based on the lack of response from the witnesses, the Tribunal President determined that they were not reasonably available. In my opinion, the Tribunal President provided ample time for the witnesses to communicate their intentions to the authorities and acted properly in determining that they were not reasonable available.

2. Enclosure (2) does not answer the question contained in paragraph 3 of reference (a). I queried the CSRT Assistant Legal Advisor in Guantanamo Bay, Cuba about this omission. In reference (b) I received information from him that he spoke to the Recorder for the Tribunal that originally heard the detainee's case. The Recorder told him that exhibits R-15 through R-18 were the additional documents requested by the Tribunal. The Tribunal considered these exhibits in reaching their decision.

3. In my opinion the proceedings of the Tribunal are legally sufficient and no further corrective action is required.

4. 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

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

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 Navy

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Enclosure(1)



Department of Defense

Office for the Administrative Review of the Detention
of Enemy Combatants, Guantanamo Bay, Cuba
Office of the Secretary of the Navy
1000 Navy Pentagon, Washington, DC 20350-1000

26 November 2004

From: Combatant Status Review Tribunal (CSRT) #15 President

Subj: REVIEW OF CSRT FOR DETAINEE ISN # [REDACTED]

To: CSRT Legal Advisor

Ref: CSRT Director ltr of 5 October 2004 (w/enclosures)

1. Reference directed the Tribunal Panel #5 President make a determination of the reasonable availability of the three witnesses requested by the detainee on his Detainee Election Form. The Tribunal #5 President's effective duty assignment ended 13 October 2004. The OARDEC Forward Officer In Charge assigned the case to Tribunal Panel #15 for follow up action as requested. This memorandum provides the determination requested.
2. On 14 October 2004, Special Agent [REDACTED], Naval Criminal Investigative Service, OARDEC Liaison Division, forwarded witness identification information to the Defense Department contact at the Department of State in Washington DC, LTC [REDACTED]. In this case, LTC [REDACTED] forwarded an action message to the US Embassy in the United Kingdom (UK) to request assistance in contacting the requested foreign witnesses. A response was requested not later than 4 November 2004. On 28 October 2004, Special Agent [REDACTED] requested a status report from LTC [REDACTED] on the witnesses contact request. LTC [REDACTED] acknowledged on 29 October 2004 that the US Embassy had received the request. He has since confirmed that it is DOS policy for a US Embassy to take action on contacts to foreign government within 48 hours of receiving the tasking. A 3rd CSRT liaison follow up request was sent on 2 November 2004 with a reminder that the suspense date was 4 November 2004.
3. On 8 November 2004, LTC [REDACTED] notified Special Agent [REDACTED] that the UK government identified a Point of Contact (POC) specifically to address all UK witness requests by detainees. At that time, LTC [REDACTED] indicated all UK witnesses have been located; however, the UK POC was awaiting a response from respective witnesses regarding their intentions to support detainee request to provide testimony. As of 18 November 2004, LTC [REDACTED] confirmed the UK POC had not been contacted from respective witnesses regarding their intentions.
4. I determine the requested three witnesses are not reasonably available to provide testimony for consideration regarding the classification of ISN # [REDACTED] as an enemy combatant. The US government actions undertaken to contact the requested witnesses were thorough and appropriate. The UK government cooperation in establishing a specific point of contact is also noted as helpful to the tribunal process. The UK government confirmed the witnesses were located and informed of the detainee request. This confirmed to me that the US government made a positive effort to procure the presence of the requested witnesses. The consistent communication of a reasonable suspense date of 4 November 2004 was also appropriate for the timely completion of this administrative review process. Neither the US nor UK government can

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Enclosure (2)

compel witnesses to testify in this administrative hearing. By not providing their intention to provide testimony, I reasonably assume they do not wish to testify.

5. As directed by reference letter, the original CSRT #5 report for ISN # [REDACTED] is returned for final disposition. Respectfully request the Legal Advisor review this determination of witness availability as directed by the convening authority.

[REDACTED]
[REDACTED], Colonel, USAF
CSRT Tribunal #15 President