

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.

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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30 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 2004Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-5 and R-6 was redacted. The FBI properly certified in exhibits R-2 and R-3 that the redacted information would not support a determination that the detainee is not an enemy combatant. Also note that enclosure (2) of the Tribunal Decision Report was not signed by the Tribunal President. This was a simple administrative oversight.
- d. The detainee request that two witnesses be produced to testify on his behalf. He claimed that these witnesses would testify that the detainee attempted to bribe Yemen officials to take some action that would prevent him from being allowed to travel to Afghanistan to join his parents. The detainee never posited that he did not go to Afghanistan. His position was that he only went reluctantly at the behest of his parents. The Tribunal President properly noted that such testimony, even if accepted as true, would not be relevant to the question of the detainee's enemy combatant status, the only purpose of the Combatant Status Review Tribunal. Under the factual circumstances present here, the witnesses' testimony was irrelevant to the Tribunal's determination. If the detainee's proffer was that he had not gone to Afghanistan at all, the witnesses might have been relevant as tending to prove that he did not go. That was not the detainee's position however. His purpose in requesting the witnesses was merely to show that he

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

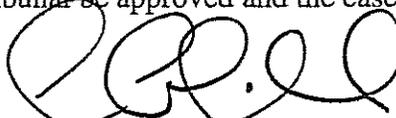
went to Afghanistan reluctantly. In my opinion, the Tribunal President's decision was correct. The detainee made no other requests for evidence.

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

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

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

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



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

24 September 2004

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

**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 of 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 stated that the detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001. It was further alleged that the detainee stated that he attended the Al-Farouq training camp in late August 2001. The summary stated that the detainee stated that he traveled to Tora-Bora Mountains in late 2001. In the unclassified summary of evidence, the Recorder alleged that the detainee participated in military operations against the United States or its coalition partners. The summary stated that the detainee stated that he was trained with and carried the AK-47 rifle while at Al-Farouq training camp. The summary stated that the detainee stated that he was arrested by Pakistani Army soldiers and was sent to Peshawar prison prior to being taken to prison in Kandahar by US Forces. The detainee chose to participate in the Tribunal process, he called two witnesses, requested no unclassified or classified documents be produced, made an oral written sworn statement. The Tribunal President found the requested witnesses not relevant, and accepted into evidence a letter from the detainee's brother discussing the detainee's presence in Afghanistan. The detainee, in his oral statement, denied being a member of Al-Qaeda and denied the veracity of most allegations made against him in the unclassified summary; however, the detainee admitted to attending Al-Farouq training camp and admitted that he trained with the AK-47 rifle, other small arms and light infantry tactics. 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.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, D-b and R-1 through R-13
- b. Testimony of the following person: Declaration by [REDACTED] dated April 11, 2004 (exhibit R-4).
- c. Sworn written statement of the detainee: Exhibit D-b.

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

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Salah Hassan	Not relevant*	No
Omar Al-Hamily	Not relevant*	No

* The request for the witnesses was denied on the basis that the witnesses would testify that the detainee attempted to bribe Yemen officials so that he would not be allowed to travel to Afghanistan to join his family. The Tribunal President agreed that the witnesses would testify to this; however, due to the limited scope of this Tribunal the request was denied. The Tribunal President ruled that the witnesses testimony would not be relevant to the determination as to whether or not the detainee is properly classified as an Enemy Combatant.

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-4 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. Exhibit R-4 is a declaration from the detainee's brother, [REDACTED] declaring his intention to act as the detainee's "next friend" and designating Micheal Ratner, Joe Margulies, Clive Stafford Smith or their associates to act on behalf of the detainee and to take whatever legal action necessary in consideration of the detainee's best interests. Although this letter is clearly intended for Habeas Corpus proceedings and not for the determination of the detainee's enemy combatant status, it did prove useful in stating the detainee's family did not know the whereabouts of the detainee from sometime in August 2001 to April 2002. Accordingly, the Tribunal had to rely the detainee's sworn testimony, the detainee's written statement, the letter drafted by the detainee's brother, 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 testimony, the detainee's written testimony, and the declaration of "next friend" letter drafted by the detainee's brother. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that most accusations made against him alleging his status as an enemy combatant were false. He denied being a member of al-Qaida, but confirmed that he attended weapons training at Al-Farouq and trained with the AK-47 and other light infantry weapons and tactics. During his sworn testimony the detainee stated that he was forced to travel from Yemen to Afghanistan to be with his parents that had previously moved there. The detainee testified that he did not want to go to Afghanistan and tried to prevent his travel there by intentionally bribing Yemeni travel officials so that he would be prevented to travel to Afghanistan. The detainee testified that the bribe attempt failed and he traveled from Yemen to Afghanistan via Bahrain and Pakistan. The detainee denied that he traveled to Afghanistan as a member of Al-Qaida and or to fight the Northern Alliance or US Forces. The detainee testified that he stayed in several guest and safe houses in Pakistan and Afghanistan, paid an unidentified Afghani to help cross the border from Pakistan into Afghanistan and traveled to Kandahar; however, he denied staying in Al-Qaida or Taliban controlled guest houses or knowing or associating with Al-Qaida members. The detainee further testified that he traveled to Al-Farouq and attended small arms weapons training and light infantry tactics courses because his father and older brother wanted him to attend. The detainee testified that he only went to Al-Farouq because his father said that he could leave Afghanistan after he attended training and believed that to be his way back to Yemen. He stated that he only attended Al-Farouq for four days and left on 9/11 because he was told that the buildings at the camp were crumbling. The detainee denied leaving Al-Farouq with his AK-47 and denied traveling to the front line to fight the Northern Alliance or US Forces, although he admitted to traveling from Al-Farouq to Kabul. The detainee testified that he was not an Al-Qaida fighter, Taliban fighter, or ever participated in combat operations while in Kabul, but was sick and stayed in a hospital. The detainee testified that he decided to leave Afghanistan and traveled with the company of several Arabs and an Afghani guide via the Tora-Bora Mountains to Pakistan. The detainee testified that he was arrested in Peshawar, Pakistan without a weapon, passport and other identification. He was arrested by Pakistani authorities and believed that he would be turned over to the Yemeni Embassy but was handed over to US Forces. The letter written by the detainee's brother was persuasive in that it conflicted with the detainee's stated purpose to travel to Afghanistan and his whereabouts while in Afghanistan. In testimony, he stated that he saw his family once before attending training in Al-Farouq and yet he failed to either maintain contact or stay with his family throughout the duration of his time in Afghanistan. The Tribunal concluded that the detainee's intention to travel to Afghanistan was not to be with his family, but to participate in weapons training at Al-Farouq a known Al-Qaeda training facility. Although the Tribunal did not find the detainee's testimony regarding his purpose to traveling to Afghanistan persuasive, 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, he is a member of the Taliban and has affiliations to al-Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

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

Colonel, USAF

Tribunal President

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 asked, "Like what." [The Tribunal President asked if he had any questions about what we were doing here today.] [The Detainee answered:] I don't know how to answer your question. [The Tribunal President stated]: If you have a question about the process as we go along you may ask it and we will answer it.

When asked by the Tribunal President if the detainee wanted to make a statement the detainee stated yes and had his Personal Representative provide a written statement to the Tribunal. [The Personal Representative read the following statement]:

Regarding the allegation 3. A 1. [The detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001.]

I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and forced me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen.

Regarding the allegation 3. A 2. [The detainee stated that he attended the Al-Farouq training camp during late August 2001.]

Yes, I did go to the Al-Farouq training camp. How I got there is important. My parents went first to Afghanistan. They sent for me and when I got there I told them I did not want to stay. My father said just stay for two months and attend this camp and then I will send you home to Yemen. Both my father and older brother told me this, so I had to do it. I accepted going to the Al-Farouq camp as it was my ticket home.

Regarding the allegation 3. A 3. [The detainee stated that he traveled to the Tora Bora Mountains during late 2001.]

The statement is essentially correct. However, I was leaving Afghanistan to go the Pakistan and was taking the only route available. I was traveling without a weapon of any kind. The reason I was traveling was to leave Afghanistan to go through Pakistan to

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get home in Yemen. I did not know the name of the mountains; I learned they were the Tora Bora Mountains when I arrived in Pakistan.

Regarding the allegation 3. B 1. [The detainee stated that he was trained on and carried an AK-47 while at the Al-Farouq training camp.]

Yes, I trained some on the AK-47, even in Yemen we were familiar with this weapon, it is very common. I only learned to take it apart, clean it and put it back together. I was only in the camp for four days when 9/11 occurred and the training stopped and the camp was shut down.

Regarding the allegation 3. B 2. [The detainee stated that he had an AK-47 when he left the Al-Farouq training camp.]

This statement is not true, when I left the camp; I had no weapon at all. The weapons in the camp were for training only, they were taken away every day after training.

Regarding the allegation 3. B 3. [The detainee stated that he was arrested by the Pakistani Army and was sent to the Peshawar prison prior to being taken to the prison in Kandahar by the American forces.]

This statement is essentially true. I intended to turn myself over to the Pakistani authorities. With no money, friends or relatives they would be obligated to send me back to my home in Yemen. Instead they turned me over to the Americans.

[The Tribunal President asked the Detainee if he had anything else he would like to say.] The Detainee stated, yes I want to add something.

Just to clarify, the officer Omar Al-Hamily he is not the customs officer, he knew the customs officer. My intentions were to go to my friends at the customs office and they would stop me and prevent me from leaving Yemen. I use to work in customs so I have friends there. When I got to the Al-Farouq camp I got sick, so I went back to Kandahar. After I got well I came back to the camp for 24 days.

[The detainee was told he was not given a chance to take an oath. He was asked if he would like to do it at this time. To swear to everything he had already stated.] The Detainee stated he would like to take the oath. [After the Detainee took his oath the Tribunal stated:] Then the Tribunal will consider everything you said so far to be your sworn testimony. The Detainee agreed.

Summarized Answers in Response to Questions by the Personal Representative

Q. Before the Tribunal came in we showed you the letter from your brother and his story is a little different than yours. I would like you to explain the difference.

A. Not all of my brother's testimony is wrong. The part about me being in school is true, but there are two differences. [The Translator asked the detainee what the differences were.] The detainee stated he didn't remember but if asked he would respond. [The Personal Representative looked at the letter and asked about the part where his brother said he disappeared] [The Translator read that part of the letter to the Detainee] [The Detainee stated]: I didn't consider this when I was given you my responses to the charges. It is true, I disappeared in Afghanistan and my family didn't stay there. They didn't see me. I told them during the interviews, I didn't see my father. We had no communication or contact. When I got here to Cuba, I sent them letters.

Q. About the Yemen mission that came here, you told them one story and this is a different story.

A. [The Translator read that part of the letter to the Detainee] [The Detainee stated]: When I first got here there was a delegation from Yemen with Americans. I told them a story and after they left I changed my story. The second version is the true story.

Summarized Answers in Response to Questions by the Tribunal Members

Q. You say you went to Afghanistan to join your parents, can you tell me how you got there?

A. I left from Yemen to Karachi and stayed about a month. I then went to Quetta for a day or less and after that I went to Kandahar.

Q. Did your family pay for that or did you receive it from somebody else? Where did you get the funds to travel?

A. They left me about \$100.00. I bought some things I needed, gave \$50.00 to the officer for a bribe, and had \$40.00 left.

Q. Did you take an airplane?

A. I already had the plane ticket. My father left it before he departed.

Q. When you stopped in Quetta, how did you get across the border?

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A. I crossed the border on a bike.

Q. Were you by yourself or in the company of other people?

A. There were two people with me in the car, but we all took motorcycles across the border.

Q. Do you know if those people traveling with you were Al-Qaida or Taliban?

A. No.

Q. When you got to Kandahar where did you stay?

A. I stayed at a safe house with some Arabs.

Q. And then from Kandahar you went to Al-Farouq?

A. No I went home.

Q. Home with your parents?

A. Yes.

Q. When did you go to Al-Farouq?

A. I left home and went back to the safe house where the Arabs were staying. I left there and went to Al-Farouq.

Q. What did you learn at Al-Farouq?

A. I didn't learn a lot, just how to take the rifle apart and put it back together.

Q. After you left Al-Farouq where did you go?

A. We went to Kandahar and then to Kabul.

Q. Did you engage in any fighting when you were in Kabul?

A. No, I was sick and at the house clinic.

Q. When you were in Afghanistan, after you got well, did you engage in any fighting?

A. I tried to go home, I couldn't get in touch with my father, so I went to Pakistan.

Q. You went to the Tora Bora Mountains first and then to Pakistan, correct?

ISN # [REDACTED]
Enclosure (3)
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A. I didn't know they were the Tora Bora Mountains. This was the only way to go, so I took it. When I got to Pakistan they told me I came through the Tora Bora Mountains.

Q. When you were arrested by the Pakistanis did you have weapons with you?

A. No, I was arrested in the city. I was in a car. I left a small village with a Pakistani guy and didn't have a weapon. I never had any weapons.

Q. Do you know who Al-Qaida is?

A. No.

Q. I want to ask a few background questions. Your family is from Yemen?

A. Yes.

Q. Did your parents move to Afghanistan?

A. Yes.

Q. But you remained in Yemen?

A. Yes.

Q. How old were you at this time?

A. Between 17 and 18 years old.

Q. Did you live in Yemen by yourself for a time?

A. I had Uncles.

Q. Why did your parents move to Afghanistan?

A. I don't know.

Q. Why did they want you to come and join them in Afghanistan?

A. I don't know. They wanted the whole family to be with them, so I had to go.

Q. Did they bring your brothers and sisters to Afghanistan when they moved? Or did they bring them later?

A. They went first, then my brothers, then me. My sisters didn't go.

Q. Did your sisters stay in Yemen?

A. Yes, I have only one sister and she is married.

Q. So, when you got to Afghanistan you moved into your parent's house?

A. Yes.

Q. How long did you live there, until you went to Al-Farouq?

A. Less than a week.

Q. Why did your father and your brother want you to go to Al-Farouq?

A. I don't know, but it was the only way I could go back to Yemen. They said if I went, I could go back to Yemen. I already had a job at a restaurant and wanted to go back.

Q. But you have no idea why your father wanted you to go to Al-Farouq?

A. No.

Q. Did he send your brothers to Al-Farouq also?

A. No.

Q. Just you?

A. Yes, because I requested to go back to Yemen and this was the condition for me to go back.

Q. What does your father do in Afghanistan?

A. I don't know. I only stayed with them for less than a week.

Q. What is your father's normal occupation, does he have a trade, or run a store, or what does he do for a living?

A. He is a contractor, he does his own jobs, like construction, in Mosque, paints houses, he fixes things, he works in a bakery, what ever.

Q. When you went to Al-Farouq, you were there for only four days, the second time?

A. When I first went I stayed in the safe house for three days, then went to the camp. I stayed there for a while and then got sick. They took me back to Kandahar and then I came back and trained for four days. After the four days they closed the camp.

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Q. Who owns the safe house that you stayed in?

A. Which safe house are you talking about? The one I stayed in when I first came or the second one.

Q. When you came first?

A. I don't know.

Q. Okay, how about when you came the second time?

A. The second time I went straight to the house clinic. I stayed there for about four days and then went to the camp.

Q. Was it a Taliban clinic?

A. I don't know, the only people there were Afghans.

Q. Why did they close the camp?

A. I didn't know at first, they just told us to go. When we were in the car, on the road, we heard there were bombings in the United States.

Q. Where were you going in the car when you left the camp?

A. We were going back to Khandahar.

Q. And what happened when you got to Khandahar?

A. We stayed there had dinner and left early the next morning to Kabul.

Q. And after Kabul that's when you tried to get to Pakistan?

A. Yes, I went to Pakistan.

Q. Did you walk from there? How did you get through the mountains?

A. You have my story; I went with one Afghani and two of my friends.

Q. How long were you in Pakistan before you were arrested?

A. I'm not sure, 2, 3, or 4 days. We left the village and went to the city. My friends succeeded but I was captured.

Q. Trying to enter the city?

A. My friends had money and succeeded getting into the city but I couldn't. Our goal was to get into the city where the embassies are and go back. My friends had no problems because they had their passports, visas, and money. But, because I didn't have any of these, I was told my best bet was to go to the embassy and surrender myself. This is what I was planning to do when I was captured. They captured me before I got to the embassy.

Q. So, you didn't have your passport with you?

A. No, my passport was with my family.

Q. When exactly were you captured?

A. I don't know the Christian calendar; it was four or five days after Ramadan. It was fifteen days before Christmas.

Q. So, you left Al-Farouq on the eleventh day of September and 10 December is when you were captured when you first entered into Pakistan. What were you doing immediately before Ramadan?

A. I was in the clinic in Kabul.

Q. No, you were in the clinic before you went to Al-Farouq the second time, weren't you?

A. The trip was really difficult and long, so when I got there I was really weak and sick.

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

A. No.

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

A. No.

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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)
Page 9 of 9

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MEMO FOR RECORD

TO: PR-52

SUBJECT: WITNESS REQUEST FROM ISN # [REDACTED]

DATE: 17 SEP 2004

ISN # [REDACTED] has requested 2 witnesses who are expected to testify that Detainee # [REDACTED] did not want to follow his family to Afghanistan. Specifically that he tried to bribe Yemen officials so that he would not be allowed to travel to Afghanistan with his family. For the purpose of this Tribunal, I will agree that the witnesses would testify to this. However, due to the limited scope of this Tribunal, this information is not relevant to the determination as to whether or not he is properly classified as an Enemy Combatant. The request for witnesses is therefore denied.

However, if the Tribunal determines the Detainee to be properly classified as an Enemy Combatant, these witnesses could be determined to be relevant during the Administrative Review Board and should be reconsidered at that time.

[REDACTED], Colonel, USAF
Tribunal President

DETAINEE ELECTION FORM

Date: 16 Sep 04

Start Time: 0820

End Time: 0930

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? Y Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee will submit a written statement and provide oral comments along with it. He also has two potential witnesses to attest to his attempt to not travel with his family from Yemen to Afghanistan. Detainee insists that he did not want to follow his family to AF. As evidence he has listed two persons in Yemen who would know that he tried to bribe customs personnel to ensure that he was not allowed out of the country. "I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and told me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen."

Personal Representative: [REDACTED]

UNCLASSIFIED

Recorder Exhibit List
For
ISN [REDACTED]

#	Title	Classification
R1	Unclassified Summary	UNCLASSIFIED
R2	FBI Redaction Memo dtd 8-SEP-04	UNCLASSIFIED
R3	FBI Redaction Memo dtd 14-SEP-04	UNCLASSIFIED
R4	Declaration by [REDACTED]	UNCLASSIFIED
R5	FBI FD-302 20-MAY-02	FOUO/LES
R6	FBI FD-302 05-MAY-02	FOUO/LES
R7	CITF-CDR Memo dated 08-MAR-04	SECRET//NOFORN
R8	JTF GTMO-CG Memo dated 14-APR-04	SECRET
R9	JTF GTMO Baseball Card dated 25-AUG-04	SECRET//NOFORN
R10	Knowlegdeability Brief 17-MAY-02	SECRET
R11	OSD SO/LIC Assessment 1-MAY 02	SECRET//NOFORN
R 12	IIR 2 340 6765 02	SECRET
R 13	CITF Intel Report dtd 24-Feb-98, pgs 2,3, 28,29	SECRET//NOFORN

UNCLASSIFIED

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (02 SEP 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal - AL RAIMI, Ali Yahya Mahdi

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of Al Qaeda and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is a member of Al Qaeda:
 1. The detainee admitted that he traveled from Yemen to Afghanistan to help fight in the war during the middle of 2001.
 2. The detainee stated that he attended the Al Farouq training camp during late August 2001.
 3. The detainee stated that he traveled to the Tora Bora Mountains during late 2001.
 - b. The detainee participated in military operations against the United States or its coalition partners.
 1. The detainee stated that he was trained on and carried an AK-47 while at the Al-Farouq training camp.
 2. The detainee stated that he had an AK-47 when he left the Al-Farouq training camp.
 3. The detainee stated that he was arrested by the Pakistani Army and was sent to the Peshawar prison prior to being taken to the prison in Kandahar by the American forces.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or

evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

Memorandum



To : Department of Defense Date 09/08/2004
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
ALI YAHYA MAHDI AL RIMI (ISN [REDACTED])

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

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

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

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

FD-302 dated 05/20/2002

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, 09/08/2004

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

Memorandum



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

From : FBI GTMO
Counterterrorism Division
OSC [REDACTED]

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

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

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

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

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

FD-302 dated 05/05/2003
FD-302 dated 05/14/2003

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, 09/14/2004

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

DECLARATION BY [REDACTED]

I, [REDACTED] of Sana'a, Yemen under oath makes the following declaration:

1. I am the younger brother of Ali Yahya Mahdi.
2. Ali is 21 years old and is the second oldest in our family of eight. We all live together with our mother and father in a small house in Sana'a.
3. Ali is my favorite brother. He always looks out for me, protecting me from getting in to trouble and such. Not having him around leaves a really big hole in my life. Ali got along well with all the family but would occasionally fall out with our father over his refusal to pray and go to the mosque regularly. Ali wasn't a very strict practicing Muslim.
4. He wasn't the best of students either in fact he hated study and would often bunk off classes to hang out with his friends most of whom had left school and were working in the area. This was another point of contention between my father and Ali. He had one really good friend in Sana'a, who everyone knew as Uncle Saleh. Uncle Saleh had a restaurant business and Ali used to skip classes and work there instead. Ali left school in 2000 after completing Grade six.
5. Around August 2001, Ali disappeared. I'm not quite sure why but around this time he had a few problems with our father. My father loved Ali but thought him lazy at times and would reprimand him, sometimes quite severely.
6. My father made some investigation into where he might have gone, but was unsuccessful in this endeavor. None of us knew where he had gone.
7. To our great shock, in April 2002, we received a message from Ali via the International Committee of the Red Cross. The message was postmarked Guantanamo Bay, Cuba. We now knew where Ali was; a prisoner in Guantanamo.
8. The letter said that he was safe and well and asked that we pray to God to save both him and his fellow inmates from the place they were held.
9. Since this letter, my family as well as Ali's friends has received about 15 letters from him. The last message we received was dated August 2003. In one of them he asked us not to send him any more letters as he found reading them very sad.

Annexed hereto marked "AYM 1" are copies of some of them together with English translations.

10. Upon learning that Ali was a prisoner, we all felt an overwhelming sense of sadness. We are all afraid of what might happen to him especially now after reading the reports of how detainees are treated at Guantanamo in newspapers and seeing interviews with detainees who were released from the facility. These reports give us a very black picture of what might be happening to him.
11. My mother has been very badly affected by Ali's imprisonment. She was in poor physical health before she received the news and her condition has become progressively worse ever since.
12. As well as feeling depressed about Ali's imprisonment, we feel a sense of shame in our small community. Because he is in prison, our neighbors think he has done something wrong and is some sort of a criminal.
13. Ali is not a member of Al Qaeda, nor was he ever a member of the Taliban government armed forces. We have no idea who arrested him or the reasons for his arrest. We have no idea why he is now being held at Guantanamo.
14. Neither myself, nor any other member of our family have contacted either the United States Embassy in Yemen or the Yemen Government authorities to find out more about Ali's arrest and detention in Guantanamo. We don't think that such approaches would be fruitful and besides we are too afraid to do so.
15. To the best of my knowledge no charges have been laid against Ali. Nor has he been brought before a judicial officer of any properly constituted court or tribunal since his detention.
16. From my brother's messages and my knowledge of his nature I know that Ali wants me to take legal proceedings on his behalf to challenge the lawfulness of his detention. To this end I wish to act as his "next friend".
17. I hereby instruct, request and authorize, Michael Ratner, Joe Margulies, Clive Stafford Smith, or their associates, to act on behalf of my brother and to take whatever legal steps they consider be in my brother's best interests including filing proceedings in U.S. and international fora.
18. I know the facts herein to be true of my own knowledge, except where otherwise appears.

At Sana'a on this 11th day of April, 2004



Witnessed By:



A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke.

DETAINEE STATEMENT

16 September 2004

A.

1. I did not want to leave Yemen for Afghanistan. My parents were already in Afghanistan and forced me to come there. I tried to bribe an official with \$50.00 to not allow me through the customs at the airport. Something went wrong and I was not stopped. If I had been stopped by legal authorities, I could have told my parents that the government would not let me leave. My friend Salah Hassan is the one who found an officer who knew the customs people. We met with this officer (Omar Al-Hamily) about an hour prior to the departure of my plane. He took the money and copied down my passport number. They can prove that I did not want to leave the country. Salah Hassan will be easy to find as he has written to me here and you have his address. Both of them live in Sanaa, Yemen.

2. Yes, I did go to the Al-Farouq training camp. How I got there is important. My parents went first to Afghanistan. They sent for me and when I got there I told them I did not want to stay. My father said just stay for two months and attend this camp and then I will send you home to Yemen. Both my father and older brother told me this, so I had to do it. I accepted going to the Al-Farouq camp as it was my ticket home.

3. The statement is essentially correct. However, I was leaving Afghanistan to go the Pakistan and was taking the only route available. I was traveling without a weapon of any kind. The reason I was traveling was to leave Afghanistan to go through Pakistan to get home in Yemen. I did not know the name of the mountains, I learned they were the Tora Bora mountains when I arrived in Pakistan.

B.

1. Yes, I trained some on the AK47, even in Yemen we were familiar with this weapon, it is very common. I only learned to take it apart, clean it and put it back together. I was only in the camp for four days when 9/11 occurred and the training stopped and the camp was shut down.

2. This statement is not true, when I left the camp; I had no weapon at all. The weapons in the camp were for training only, they were taken away every day after training.

3. This statement is essentially true. I intended to turn myself over to the Pakistani authorities. With no money, friends or relatives they would be obligated to send me back to my home in Yemen. Instead they turned me over to the Americans.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 20 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: 21 Sep 04

[REDACTED]

[REDACTED], USA
Personal Representative

ISN # [REDACTED]
Enclosure (5)