

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMED ALI FOWZA,

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-280 (CKK)

DECLARATION OF TERESA A. McPALMER

Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, 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 Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

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 Mohammed Ali Fowza that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel and foreign nationals in order to protect the personal privacy and security of those individuals.

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

Dated: 29 July 2005

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 752

23 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 440**

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 #440 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)
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18 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *SLC*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 440

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 #24 of 26 November 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 elected to participate. *See* exhibit D-a. Detainee provided an unsworn statement to the Tribunal. In addition, he provided answers to questions posed by individual Tribunal members in an unsworn capacity. The Tribunal in its deliberations considered both the statement and the questions.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-3 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested 1 witness. The Tribunal found the witness to be relevant and submitted a request to the U.S. State Department to locate the witness in Yemen. On or about 9 November 2004 the U.S. State Department requested the Yemeni government locate this individual. Up to the time of the Tribunal hearing of 1 December 2004, the Yemeni government did not respond to the State Department request. Therefore, the Tribunal president determined that the detainee's requested witness was not reasonably available. It is my opinion that the Tribunal acted properly in determining the detainee's requested witness to not be reasonably available.

UNCLASSIFIED

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 440

e. The detainee also stated in his unsworn statement that he had requested certain evidence from members of his family in an effort to disprove the U.S. government's allegations against him. The Tribunal does not directly address whether the information was ever provided to the Personal Representative to present to the Tribunal on the detainee's behalf. While this evidence might have the potential to favor the detainee, it is my opinion that the Tribunal properly reached a determination as to whether the detainee should be classified an enemy combatant using the preponderance of evidence standard as outlined in references (a) and (b).

f. The Tribunal's decision that detainee #440 is properly classified as an enemy combatant was unanimous.

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



PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

26 Nov 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #24

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

27 December 2004

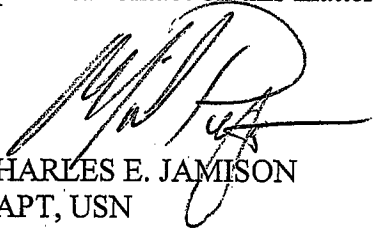
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 440

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 [REDACTED].

FOR


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #24

(U) ISN#: 440

Ref: (a) (U) Convening Order for Tribunal #24 of 26 November 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/~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/~~FOUO~~)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/~~FOUO~~)

1. (U) This Tribunal was convened 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 01 December 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #440 is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida and the Taliban, as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Colonel, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #24
ISN #: 440

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and the Taliban. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the detainee was a member of, or affiliated with, al Qaida and the Taliban. The unclassified evidence also indicated that the detainee received weapons training at the [REDACTED] training camp and that he engaged in hostilities against the United States and its coalition partners in Taloqan. Finally it indicated that he was captured in Mazar-e Sharif while fighting with the Taliban. He requested one witness, requested no documents be produced, and made an unsworn verbal statement. The Tribunal President found the requested witness not reasonably available to testify and that alternative means of producing the witness's testimony were not reasonably available. 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 and R-1 through R-17.
- b. Testimony of the following persons: none
- c. Unsworn statement of the detainee.

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>
	Not reasonably available	No*

* The Tribunal President explained to the detainee on the record that he ruled this witness's testimony could be relevant, and asked that the U.S. Government attempt to produce him. The CSRT legal advisor then used standard CSRT procedures to request the U.S. Department of State attempt to contact this individual through the Yemeni Government. The Department of State subsequently informed the CSRT legal advisor that on or about 9 November 2004 they formally requested the Yemeni Government locate this individual. After a reasonable amount of time had elapsed, the Yemeni Government did not respond to the request. Therefore, lacking the cooperation of the Yemeni Government, the Tribunal President was forced to find this witness not reasonably available.

The Detainee requested no additional evidence be produced; no rulings were necessary.

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits (as well as the detainee's statement) for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's unsworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that his travel documents were not counterfeit and that he had changed his name legally to avoid retaliation from a family feud that his grandfather had been involved in. The detainee stated when he arrived in Afghanistan all the training camps were closed so he could not have received training. Additionally he stated that he had received training on the AK-47 in Yemen so he would not need to get training. The detainee stated he traveled with three Arabs on a commercial airline while in Afghanistan. The detainee stated while in Taloqan he did not fight, but was in the city working for a Non Governmental Organization (NGO) as a teacher. The detainee stated that he was

captured by General Dostum's forces, and was in the company of members of the Al Wafa NGO.

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

The Tribunal President consulted with the CSRT Assistant Legal Advisor concerning the witness request discussed above.

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. He asked no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, USAF

Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

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

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

Tribunal President addressed the detainees' witness. The witness named [REDACTED] (ph) was considered relevant. The Tribunal President requested the United States government contact the Yemen government to locate the witness. The Yemen government was contacted on or about 9 November 2004 but as of the date of the hearing, the Yemen government had not responded to the request. Therefore lacking the cooperation of the Yemen government, the Tribunal President ruled that the witness was not reasonably available.

The Detainee did not want to take the Muslim oath.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The allegations appear in italics, below.

3.a.1. The detainee traveled to Afghanistan using counterfeit travel documents.

Detainee: First of all my documents were not counterfeited; these documents were real. I got my passport from the Yemen government, but the only thing that changed was my last name from Muhammad to Osama.

3.a.2. The detainee attended weapons training on the Kalashnikov, PK, M-16, and G-3 at the [REDACTED] training camp in Afghanistan.

Detainee: When I first entered Afghanistan all the training camps were closed. I was trained on the Kalashnikov in Yemen when I was 7 years old, so why would I get training in Afghanistan. The M-16 and G-3, I did see them in Afghanistan, but I never used them there nor was I trained on them. I saw some people carrying those kinds of weapons.

Personal Representative: During our interview you had told me the reasons why you went to Afghanistan in reference to these two points.

Detainee: This is true.

Personal Representative: Would you like to explain that?

Detainee: Yes, I was in Sana studying, before that I was present in Hadratoom. There was a conflict between some groups; my grandfather stabbed somebody with his knife. Before that my grandfather had another problem similar to this one, I was trying to help him out of it. He was put in jail for that for 10 years. When the second problem occurred I fled to Sana when that happened. Since I helped my grandfather I thought they were going to retaliate. When I was in Sana; I met [REDACTED] who suggested that I should go to Afghanistan so I can solve my problem with my grandfather. He had a friend that was in Afghanistan and he would pay me 200 dollars a month, to work with his charity group. I decided to leave and I went to get a passport and I changed my real name from Muhammad to Osama, as well as my last name. When I got there and I studied computer programming. I traveled from Dubai to Pakistan, from Pakistan to Karachi, from Karachi to Quetta, from Quetta I entered into Afghanistan, from Afghanistan to Kandahar, from Kandahar to Kabul. You can verify this by [REDACTED] (ph) he is the man who owned 1000 sheep/lamb, he distributed all that through the poor villages, and on the border of Pakistan there was poor people that we distributed clothing, sugar and rice for the holiday. Then we traveled to Kabul with Baltians (ph) they were Arab from Kandahar. When we were in Kandahar we went to an Arab house, we didn't stay at the house at night because of the fear an air strike would hit the house. When I left the house at night is when I saw the Kalashnikov's, PKS', G-3 and M-16's. When I went to Kabul I stayed in Kabul, and [REDACTED] used to travel to Yemen and get some money and then came back. He was a famous well-known man and was in charge of an Islamic charity group. In Kabul I went to a (inaudible) and met a Palestinian man, I used to stay with him and I learned from him; he was the man I met in Sana and offered me a job. I used to go to the back border with him and played football there.

3.a.3. The detainee was transferred with a group of Arabs from Kabul to Mazar-e-Sharif on a Taliban owned aircraft.

Personal Representative: You had told me that it was not a Taliban owned aircraft it was a civilian airplane.

Detainee: That is true the airline was Ariana; a civilian airline. The price for the ticket was 1000 Pakistani. When I went to Mazar-e-Sharif, I traveled with [REDACTED] and 3 other Arabs. The aircraft was not a Taliban aircraft.

3.b.1. The detainee fought with the Taliban in Taloqan, Afghanistan after 11 September 2001, and was present in Taloqan after the U.S. air campaign begun.

Personal Representative: You told me that was not true, that you did not fight and you were in the city.

Detainee: First of all Taloqan wasn't a fighting city. Civilians lived there and it wasn't a battlefield. The fighting border was hundreds of miles away from Taloqan. It's true I was in Taloqan but there was never any fighting there. We had a legitimate place there so we could teach. We used to teach the curriculum of Sarafee (ph), a Taliban group shut it down since their curriculum was Sarafee (ph). I stayed in Taloqan until then.

3.b.2. The detainee fired his weapon in battle at the United States or its coalition partners.

Personal Representative: You stated that is not true.

Detainee: This is a strange thing I am hearing. Why would I fight the United States of America? I have nothing against them. The rice and flour we have is American. Why would I fight them? They are our food source. I was in that city but it is not a battlefield. I wasn't a fighter. You can ask [REDACTED] I was staying with him at the time. We were working; digging trenches for gas lines at the time.

3.b.3. The detainee was captured in Mazar-e-Sharif while fighting with the Taliban.

Detainee: This is not true at all; when I was captured I was in Konduz. When the city of Taloqan was captured I went to the city of Konduz. Me and some group, the Taliban left Konduz another group named Tustun (ph) came in; an they found out I was with a different group and they decided to interrogate me then gave me to the United Nations. I was with an Arabic guy and some guy from al Wafa. They took us to jail and from there to an intelligence agency. They said they were going to investigate some things and turn us over to the United Nations.

Tribunal President: United Nations or United States?

Detainee: United Nations. Then I stood there for two months then the American came to interrogate me. The people I was with were either killed or sent to a different jail. There was an Arabic translator working with me.

Tribunal President: Does that conclude your personal statement?

Detainee: That is all I have.

Tribunal President: Thank you for your statement.

Tribunal President: Personal Representative do you have any questions for the detainee.

Personal Representative: Yes I do.

Personal Representative Questions

Personal Representative: I have a clarification question from a meeting we had a month ago today. You had stated a lot more here then you did in the original meeting. None of the new information disputes the old information. There is one thing I want to make sure I know and the tribunal to know about your reasons to travel to Afghanistan. I feel it is important.

- Q. During our meeting you explained to me that your grandfather had stabbed an individual; and you went to the tribe leader and the police to take responsibility for your grandfather.
- A. Before I went to the police station I went to see the head of our group, and another leader of a different group. They went and talked to the people to see if we can post bail for the grandfather. They paid and took him from the prison. The police station has records that you can verify that. I am waiting for a letter from my parents to prove what happened at the police station there.
- Q. My question is; did you accept responsibility for your grandfather?
- A. Until now I am responsible; I cannot go back to my own town since I took responsibility for my grandfather. My grandfather stabbed another person and is in prison now.
- Q. Because you took responsibility you could not stay in your own country is that true?
- A. They were going to retaliate on me, that's why I couldn't stay.
- Q. That is the point I'm getting to; you told me that is the reason you went to get your passport name changed. Is that the truth?
- A. Yes, I changed my name. Everybody knows my name and that is why I changed it to Muhammad.
- Q. When did you travel to Afghanistan?
- A. I don't remember exactly.
- Q. If I can clarify from our meeting you had stated you traveled there about 8-9 months before the attacks on America?
- A. Approximately.

The Personal Representative and the Recorder had no further questions.

Tribunal Members' Questions

- Q. Did you fund your own travels to Afghanistan or did someone else fund your travels?
- A. I paid for my own traveling.

Detainee: If you would like I can give you the proof. I am ready.

Tribunal Member: No that is fine.

- Q. What job did you have in Afghanistan?
- A. I used to work for a charity group, and they used to teach children.
- Q. What charity group?
- A. The name Ahfad al Sabah. In the last days we used to have some association with the al Wafa group.

Q. What did you teach the children?

A. Talked about Koran.

Q. Do you speak the Afghan language?

A. We had many translators.

Q. While you were in Afghanistan did you own any weapons?

A. I didn't have any weapons, but I had a small knife to peel an apple.

Q. Why did you travel on the aircraft to Mazar-e-Sharif?

A. The trip was going to Mazar-e-Sharif.

Q. The purpose of going there was for what?

A. My purpose was for Taloqan.

Q. So Taloqan was near Mazar-e-Sharif?

A. Approximately, it takes about 3 hours by car.

Tribunal President asks the detainee if he had any other evidence to present to the tribunal.

Detainee: I have some videotapes that we use for charity purposes I can provide the tapes for you. They took them away from me when I was captured.

Tribunal President: I understand and if the tribunal requires those tapes we will attempt to locate them. At this time there is no need for them.

Tribunal Member: I want to clarify a few things. In your statement you said you wrote a letter to your parents. Did you ask them to get information from the police?

Detainee: I had asked my parents to make a copy of my file. They do have my file there of all what happened.

Tribunal Member: Do you know when that will get here?

Detainee: I hope soon.

Tribunal Member: Would that tell us that you did take responsibility for your grandfather?

Detainee: Yes, it would prove everything and my grandfathers' actions. I can have them fax it to me.

Tribunal President: If you do get it, please notify your Personal Representative so he can bring it to our attention.

Detainee: I will notify my Personal Representative if I receive anything.

Tribunal President: Your explanation for why you left was very complete and thorough. Thank you again for that.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the Tribunal.

AUTHENTICATION

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



Colonel, USAF

Tribunal President

DETAINEE ELECTION FORMDate: 1 November 2004Start Time: 1240 hrsEnd Time: 1340 hrsISN#: 0440Personal Representative: [REDACTED] MAJOR, USAF
(Name/Rank)Translator Required? YESLanguage? ARABICCSRT 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 desires to participate in the Tribunal. Detainee requests 1 non-detainee witness who can attest to reasons why he traveled to Afghanistan. Witness relevancy request sent this day. Need to schedule a follow-up interview. Very cooperative and pleasant. No issues.

WITNESS SPECIFICS: [REDACTED] (witness) provided Mohammed Ali Abdullah Bwazier (detainee 0440) counterfeit documents for Bwazier (detainee) to travel into Afghanistan. Witness can also testify to the reasons why detainee used false papers. Essentially, detainee's grandfather had "stabbed" a man in Yemen. Detainee went to police and an agreement was made with the Police and town Shiek that detainee would take responsibility for his grandfather. However, grandfather later stabbed the man a second time, forcing detainee to flee Yemen from repercussions. This witness also met up with detainee in Afghanistan and has firsthand knowledge of detainee's circumstances and travels while in Afghanistan. According to detainee, the Al Qutan police force has the files to verify this story.

[REDACTED]
PERSONAL REPRESENTATIVE

Exhibit: D-a

UNCLASSIFIED

Combatant Status Review Board

TO: Tribunal Members

FROM: OIC, CSRT (12 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – BWAZIR, Mohammed Ali Abdullah

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with the Taliban and al Qaida and engaged in hostilities against the United States or its coalition partners.
 - a. The detainee is associated with the Taliban and al Qaida:
 1. The detainee traveled to Afghanistan using counterfeit travel documents.
 2. The detainee attended weapons training on the Kalashnikov, PK, M-16, and G-3 at the [REDACTED] training camp in Afghanistan.
 3. The detainee was transferred with a group of Arabs from Kabil to Mazar-e-Sharif on a Taliban owned aircraft.
 - b. The detainee engaged in hostilities against the United States or its coalition partners:
 1. The detainee fought with the Taliban in Taloqan, Afghanistan after 11 September 2001, and was present in Taloqan after the U.S. air campaign began.
 2. The detainee fired his weapon in battle at the United States or its coalition partners.
 3. The detainee was captured in Mazar-e-Sharif while fighting with the Taliban.
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.

UNCLASSIFIED

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Exhibit R-1

Memorandum

UNCLASSIFIED



To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT
Date 10/08/2004

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [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 440 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 06/03/2002

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

²See Executive Order 12958

UNCLASSIFIED

1 of 2
2435
Exhibit A-2

UNCLASSIFIED

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/08/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED],
[REDACTED] or Intelligence Analyst
[REDACTED],
Intelligence Analyst [REDACTED],
[REDACTED]


UNCLASSIFIED

Personal Representative Review of the Record of Proceedings

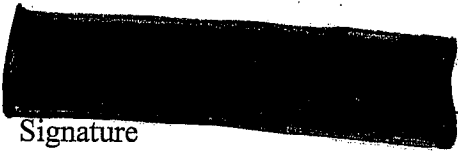
I acknowledge that on 7 December 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #440.

I have no comments.

My comments are attached.

Major  USAF
Name _____

7 DEC 04
Date _____


Signature _____

ISN #440
Enclosure (5)