

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KHI ALI GUL,)
)
)
 Petitioner)
)
 v.) Civil Action No. 05-00877 (JR)
)
)
 GEORGE W. BUSH, *et al.*,)
)
)
 Respondents.)
 _____)

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 Khi Ali Gul that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or have been redacted. An OARDEC staff member redacted information that would personally identify U.S. Government personnel and other people in order to protect the personal security of those individuals. This individual also redacted the names of internee serial numbers because certain combinations of internee serial numbers with other information relates to sensitive internal and

intelligence operations that is not suitable for public release.

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

Dated: 31 May 2005

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



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 961

26 FEB 2005

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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 B. Wiegmann)
DoS (Ambassador Prosper)
DASD-DA
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SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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4261

7 Feb 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 # [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 #12 of 29 September 2004
(2) Record of Tribunal Proceedings
(3) Email of 7 February 2005

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. The detainee also provided a sworn oral statement to the Tribunal in question and answer format. *See* enclosure (3) The Tribunal considered the Detainee's statement in its deliberations.

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-10 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 that 3 witnesses and documentary evidence be produced:

i. The Tribunal president determined that the witnesses' testimony was relevant, and sent a request for assistance to the U.S. State Department to locate the witnesses with the help of the Afghan government. As of the date of the hearing, there had been no response from the Afghan government. The Tribunal President subsequently determined that the witnesses were not reasonably available. In my opinion, the Tribunal acted properly in determining that the witnesses were not available.

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

ii. The detainee also requested a list of Taliban members from an Afghan government source be produced. The Tribunal President determined that the evidence request was relevant, and sent a request for assistance to the U.S. State Department to locate the document with the help of the Afghan government. As of the date of the hearing, there had been no response from the Afghan government. The Tribunal President determined that the document was not reasonably available. In my opinion, the Tribunal acted properly in its determination that the document was not reasonably available.

iii. It is noted that the detainee, through his Personal Representative, submitted potential questions to the witnesses that were deemed relevant but not reasonably available. I personally requested a copy of exhibit D-b from a custodian of the detainee files in Guantanamo Bay, Cuba. The custodian's response is included as enclosure (3). In my opinion, the document should have been included; however, the Tribunal could properly determine that the detainee be classified as an enemy combatant without the questions being submitted.

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 did not 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.

Peter C. Bradford

PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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

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

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

MEMBERS:

[REDACTED] Colonel, U.S. Marine Corps Reserve; President

[REDACTED] Lieutenant Colonel, JAGC, U.S. Army;
Member (JAG)

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

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

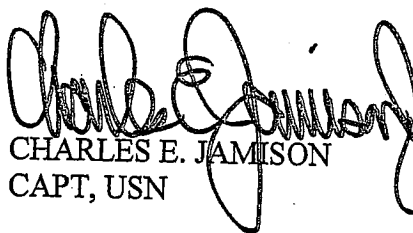
28 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander 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 [REDACTED]


CHARLES E. JAMISON
CAPT, USN

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #12 _____

ISN #: _____ [REDACTED] _____

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 because he is a member of, or affiliated with, Taliban and other associated forces engaged in hostilities against the United States and its coalition partners. 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 alleged that the Detainee is associated with forces engaged in hostilities against the United States and its coalition partners, in that he is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, rockets and various small arms. Additionally, he was the Commander in a Jihadi Battalion, a member of an organization known to have committed a terrorist act, and he participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno on 1 December 2002.

The Detainee chose to participate in the tribunal process and expressed happiness about the process and activity around the tribunal. He understood the process and had no questions concerning the process and made his statements under Moslem oath. The Detainee requested two off-island witnesses and no additional documentation. The Detainee basically denied all the allegations against him; but it should be noted that he usually provided additional information that would detract from the original allegation, or in the case of the questions and answers portion of the tribunal, avoid a direct answer.

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-16.
- b. Testimony of the following Tribunal approved witnesses: None.
- c. Sworn statement of the Detainee.

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

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

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED] (brother)	Not Reasonably Available	No
[REDACTED] (brother)	Not Reasonably Available	No
[REDACTED] (father)	Not Reasonably Available	No

*The Detainee made a request for three out of camp witnesses. The Detainee desired his father and brothers to testify to what he was doing prior to his capture and that he was not a Jihadi Battalion commander. The Tribunal President declared these witnesses relevant on 25 October 2004. On 27 October 2004, a Request for Assistance was subsequently sent to the U.S. Department of State, which forwarded the request to the Embassy of Afghanistan. Despite this request and a follow-up request on 9 November 2004, no response was received. After 30 days of no response having been received, the Tribunal President therefore ruled that the witnesses were not reasonably available and the Tribunal proceeded on 27 November 2004.

- b. The Detainee requested the following additional evidence be produced:

<u>Evidence</u>	<u>President's Decision</u>	<u>Produced?</u>
List of Taliban Members From Khowst Intelligence Service	Not Reasonably Available	*No

*The Detainee requested the above-mentioned list so the absence of his name would show that he was not a member of the Taliban. The President declared this request relevant on 25 October 2004. On 27 October 2004, a Request for Assistance was subsequently sent to the U.S. Department of State, which forwarded the request to the Embassy of Afghanistan. Despite this request and a follow up request on 9 November 2004, no response was received. After 30 days of no response having been received.

The Tribunal President therefore ruled that the witnesses were not reasonably available and the Tribunal proceeded on 27 November 2004.

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 Exhibit 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 is the FBI Request for Redaction. Accordingly, the Tribunal had to look 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. A summarized transcript of the Detainee's sworn testimony is attached as Enclosure (3) to the CSRT Decision Report, Enclosure (3).

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 requested or deemed necessary.

b. The Detainee understood and actively participated in the Tribunal proceedings. All of his questions were satisfactorily answered by the Tribunal President.

c. The Detainee is properly classified as an enemy combatant because he is a member of, or affiliated with, Taliban and other associated forces engaged in hostilities against the United States and its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[REDACTED]

Colonel, U.S. Marine Corps
Tribunal President

Summarized Sworn Detainee Statement

The Tribunal President read the Hearing Instructions to the Detainee, and asked if he understood the process.

Detainee: What process?

Tribunal President: The Tribunal process.

Detainee: Yes; if someone is not an enemy combatant, they will be released. If he is an enemy combatant, they will keep them.

Tribunal President: That's correct. Do you have any questions concerning the Tribunal process?

Detainee: What kind of questions?

Tribunal President: Questions about your testimony or what will happen here today?

Detainee: I don't know what kind of questions to ask.

Tribunal President: Just in case you have a question or are unsure of the process of the unclassified evidence being presented, there is ample opportunity for you to make a statement. The Tribunal has come here today with an open mind. We have not seen any evidence or know any information about you other than your name and Internment Serial Number.

Detainee: Are you finished?

Tribunal President: Just about; we will give you an opportunity to make a statement after I take some evidence from the Recorder. Do you have any other questions? Does that give you a good idea about the process?

Detainee: We are so happy about the Tribunal. We heard that some of them or most of them are being released; we have a difficult life, a real hardship here.

Tribunal President: That's what we understand. We, too, are happy to be here, and are focusing on your situation, whether or not you have been properly classified as an enemy combatant. If you have no other questions, we'll go ahead and continue at this time.

Detainee: Yes, please.

The Unclassified Summary of Evidence was read in full to the Tribunal by the Recorder. The Detainee interrupted the proceedings immediately after all the evidence was read to ask a question.

Detainee: What do you want to do to me? What is the time?

Tribunal President: I don't understand.

Detainee: I thought you were telling me.

Tribunal President: The Detainee thought I was talking to him, but I was talking to the Recorder.

The Tribunal President then addressed the Detainee Election Form and the Detainee's request for Witnesses.

Tribunal President: This indicates that the Detainee has chosen to participate in the Tribunal, which is evident by your (Detainee's) presence here today. The Detainee had requested two witnesses, the Detainee's father and brother. The Personal Representative had sent this request to me to make a witness determination. I felt these witnesses would be relevant to the Detainee's situation, and I recommended that we attempt to produce these witnesses, or statements from the witnesses for the Detainee's Tribunal. That attempt was made in the form of contacting the U.S. State Department, which in turn contacted the embassy of that country, which is Afghanistan. The names of the two witnesses were identified to that country's embassy and requested they be contacted. This request was sent on 27 October 2004, and it also was conveyed a suspense date of 17 November 2004 to be used as a timeline to receive an answer. The second notice was sent on 9 November 2004, and as of this date, 27 November 2004, the State Department has yet to hear back from the embassy of Afghanistan. I made the determination that we would proceed with the Tribunal, and after this reasonable attempt and effort was made, although unsuccessful, I decided that we would proceed with the Tribunal, as these witnesses are determined not reasonably available. Therefore, any requests for witnesses or documentation for this Tribunal today are determined to be not reasonably available. Keep in mind this will not be held against you; this will not be a negative reflection on the Detainee as we make a determination whether he is properly classified as an enemy combatant. We will keep this matter open for a reasonable period of time; that is, if we receive back from Afghanistan this witness request, even if we close the proceedings today, with new evidence, we would be open to introducing or re-introducing any witness statements we might receive. You may now present any information you have to this Tribunal, and have the assistance of your Personal Representative in doing so. Do you still wish, or want to present information to this Tribunal?

Detainee: What can I do; should I talk?

Tribunal President: You can make your statement under oath if you like; at this time, we'll give you this opportunity.

Detainee: What kind of oath?

Tribunal President: We have the Muslim oath available for you to take if you would like.

Detainee: You will give me the oath?

Tribunal President: Yes.

The Recorder then administered the Muslim oath to the Detainee.

The Tribunal President then directed the Personal Representative to read the Unclassified Summary of Evidence one at a time to allow the Detainee the opportunity to respond.

Personal Representative: He [the Detainee] asked me to read each allegation, and then he will respond.

3a. The Detainee is associated with forces engaged in hostilities against the United States and its coalition partners.

Detainee: Before I begin my statement, can I say two or three words?

Tribunal President: Certainly.

Detainee: The Americans have my phone number. I will call my brother, and within 2-3 days, he can bring my whole tribe, and they can testify for me. America can go there and my brother will bring the whole tribe to testify and give evidence about me. I will not say one word more or less; I want to ask just one thing: that God bring the tribe to the Americans to talk about the allegations about me.

Tribunal President: All the opportunity to provide that information was given to you earlier, and the information we had, we went with. We will not make any effort more than what we already have for today's Tribunal.

Detainee: Two or three days will finish the whole thing.

Tribunal President: This has now been over a month that attempt was made to contact your father and brother. The Afghan embassy has given no response.

Detainee: That's not my family or my brother's fault. That is the fault of the Afghan government.

Tribunal President: As I said, we not hold it against you as we make our determination. We will be moving forward today with or without witnesses. We are proceeding today.

Detainee: In the future; it's okay.

Tribunal President: It's okay?

Detainee: Yes.

Tribunal President: May we continue, please?

Detainee: May I say one other word? About our oath in our region; it is a very important subject. If a judge is going to give the oath to someone, it is only if someone dies or kills someone else. If someone is willing to raise his hand for an oath, the whole thing is finished and the case is closed; he is forgiven.

Tribunal President: Here in the Tribunal process, when you take an oath, you are promising to tell the truth.

Detainee: Yes, sir. I am just asking if you give me the oath, if you will release me or not?

Tribunal President: Whether giving your statement under oath or not under oath, it will be accepted either way. That statement will be part of everything that we take into consideration as we make our determination of your enemy combatant status. If we determine that you should not be classified as an enemy combatant, you will be released to your home country as soon as arrangements can be made; but, if we determine that you are properly or confirmed as an enemy combatant, then you will be further detained but be eligible for an Administrative Review Board that will review your detained situation. Do you have any other questions?

Detainee: No. I'm just waiting for my representative.

At this time, the Personal Representative resumed reading the Unclassified Summary of Evidence one point at a time.

3a.1. The Detainee is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, a BM 12, rockets, DSHKs, and various small arms.

Detainee: Before I answer, I want to ask the representative who that is; what kind of relationship did I have with that person? Did I sell or collect weapons? Do I know that person?

Tribunal President: We don't know either; we were hoping you could provide that information.

Detainee: In the name of God, I have thought of this so many times. I don't know this person or have any relation to this person. I have no contact or relation, and if I did, I would say if I did or didn't.

ISN# [REDACTED]

Enclosure (3)

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3a.2. The Detainee is a commander in a Jihadi Battalion.

Detainee: You can't hide the sun in the sky with two fingers. If I were a commander in Afghanistan, the whole world would know. These commanders have different bases. Who was under my command? Where was this base? Show me one person, or one soldier, one militia; if I was in command, whom did I command?

Tribunal President: Because we haven't seen your file, we don't know that either. (Addressing the Personal Representative) Please continue.

3a.3. The Detainee was a member of an organization known to have committed a terrorist act.

Detainee: The terrorists killing people; are you talking about this thing?

Tribunal President: It could be; do you know of any other terrorist acts that don't kill people?

Detainee: Interrogators told me maybe you are a terrorist and you are killing people.

Tribunal President: Do you have any other comments about this item?

Detainee: I will answer. That's the law in Khost; if anyone kills in our village or area at anytime, especially if it's a little girl or boy; you cannot kill people, that's impossible. If you do this thing, or kill someone, that's it; you then can't live in this area, and must leave your home or country and go to the border or to Pakistan; your whole family may have to go to Pakistan because you can't live there any more. We have a pump to sell gas at a gas station, and also we have a yard. We can't leave our business or wealth, and don't want to run away from our city or homeland. If I kill anyone, they have the right to take me to court; even here under the law of the United States. They should come here to court and prove to me if I ever killed someone.

3b. and 3b.1. The Detainee participated in military operations against the United States and its Coalition Partners. The Detainee participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno, 01 December 2002.

Detainee: The day the Karzai government came to power, I was a part of it. I was a part of the government up until the day they arrested me. The first time the Americans arrived, I was the first and only one to stand up to protect them; I ran to help them. If I were going to kill them, I would've shot them down at that time, and killed all the Americans. You guys are intelligent and smart. When Americans were asleep in Tora Bora, I protected them. I could've killed them while they were sleeping, but I was helping them. I don't need to make plans with other people, because I was a part of the government. I could go anywhere I wanted, when I wanted. I had many golden

ISN#

Enclosure (3)

Page 5 of 12

opportunities to kill Americans, anywhere, anytime, but I would not do that. Should I explain more, how they captured me because I had some problems with some people?

Tribunal President: You are welcomed to continue as long as you like. We will have some questions for you, though, when you are finished with your statement.

Detainee: When I travel from my village to the center of Khost village, I had so many things in my mind. I would like to go to the president of the secret police, and also to find out the gas prices for my gas station. When I traveled in the middle of the day, they arrested me, and they said there's an American campaign going on. The people are all together at a checkpoint. At this checkpoint there were some people I had a dispute with. I think these people at the checkpoint told the American soldiers a lie, and then after they came, they arrested me. There's a name of a person named [REDACTED]; he was appointed as a secret officer of the Khost area. He asked me to go to Kabul and ask the Karzai government's permission to open a secret office in Khost; secret police for secret intelligence. I told him two or three things. One, that I cannot read or write; second, my people are at war in the Middle East, and my brother takes care of the gas station, and there's no one else to take care of the family and kids. I told him I have to be here. The guy is still keeping me, and left me no choice, so I went with him. Two things come to my mind; this is our home and our time to do something for our country, and the Americans will be good for our future, our family and our kids. Finally he got some money from the American government, about \$150 per month. He promised us this, but he kept the money. We kept asking and asking, but he did not give it to us. This is why we have a dispute with him. Also, in this secret office, there was another person that was a former Communist. His name is [REDACTED] (ph); we fought with him, too. Our dispute got bigger, and they wrote a letter to the Kabul government, and they let the Communists go; there was still a dispute between them and us. Another person named [REDACTED] (ph), he was a commander of Mr. [REDACTED] (ph) force. Another was [REDACTED] (ph); he was a big commander or two star general of the government of Mr. [REDACTED] Mr. [REDACTED] (ph) went to [REDACTED] (ph) and asked for some new bases somewhere else, and open in a new area, and we joined [REDACTED] in the new base. At that time, the government and two other government officials were angry about opening the new base. They went to the Americans because they did not like this. Americans told us that President Karzai said to go to the new base, to go there and close the base. This is another dispute to know because a lot of people were upset about this thing. One group is former Communist government people and the other group is the majority, and they are very different. One thing about the Communists is that they can read and write like the Americans. That's the only reason, because we fought them for so long, and their reading and writing was good. One other thing; in Afghanistan if someone has a dispute, and one has money and the other does not, then the one with money can get them into trouble with the Americans, even if that person is working and helping the Americans. They find some excuse; I will give you so much money if you make something up against him, and make a problem for him. There are a lot of disputes between families and tribes and political parties in Afghanistan now. If someone does something good for you, he does something good for himself, too. Please understand these disputes. It is my only wish or hope to sit

ISN# [REDACTED]

Enclosure (3)

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with people someday that would listen to my story. My heart is now empty and happy to be in front of you. Please, if you have questions for me, ask.

Tribunal President: We do have some questions, but does this conclude your statement at this time?

Detainee: For now, yes, but in future, if I have other statements, I will let you know.

Tribunal Members' Questions of Detainee

Q: Good afternoon. We appreciate the opportunity to speak to you today.

A: I'm so happy and glad I am here.

Q: I was trying very hard to follow your story; it seems there's a lot of fighting going on in Afghanistan all the time.

A: We are sick and tired of war. When a jihad comes to an end, the leaders and commanders try to start another war between their own people for personal reasons. God only knows if jihad is the right or wrong thing. We are so tired, and we need no more war. We can't wait for the peace, and we pray to God for peace in Afghanistan.

Q: Of the names that you gave, I took down four of them that I heard. I am wondering if any one of them that I heard; I was wondering whether any of them; [REDACTED] [REDACTED] are members of any group against the Americans?

A: Mr. [REDACTED] is a commander of Mr. [REDACTED]. He gets military business from [REDACTED], a commander under control of President [REDACTED]. [REDACTED] is a secret police chief under Mr. [REDACTED] presidency. [REDACTED] is a former secret police chief of the former Communist government with Najibullah. I didn't directly fight for or use bad words about [REDACTED], but he had another person working for him like as a manager or supervisor, and I fight with him or use bad words with him.

Q: These people perhaps on the outside say they are with Karzai and the Americans; is there a chance that secretly they are against the Americans?

A: I don't think they are against the Americans or the new government; there was a dispute against me.

Q: Are any of these people, do you know, part of any groups like HiG or any groups against the Americans?

A: No, they are commanders of the military, and the other is a governor for Mr. [REDACTED]. One is secret police. Under former [REDACTED].

Q: Of the people that you mentioned, who is the most likely person to have made accusations against you?

A: I just named that person in general because that was the reason we opened a new base. A lot of people against this place, and told the wrong things to Americans, and they came to the base and made us close this base.

Q: Earlier you mentioned that [REDACTED] approached you to open a secret police office. Why would he ask you to do this; do you have a background in this type of work?

A: I don't have any experience. The only reason he came to me is because I know some people that are my cousins. When he was looking for help, I was the only one to get eight people, including me, to help him open this office in Khost. There was a lot of war going on there, and no security. I had two or three cousins that helped him. Finally, our help to them was to get each of us \$150 per month as a salary from the government to work here. Instead, he put the money in his pocket, and that was our problem here. That was when we started the dispute.

Q: Why do you think he came to originally; did you have a prior relationship with you or have a reason to trust you from your past dealings?

A: We knew each other.

Q: A long time?

A: He has a nephew named [REDACTED] who was a commander; I knew [REDACTED] Mr. [REDACTED] was a commander under [REDACTED]

Q: Do you think [REDACTED] may have stockpiled all these weapons that we heard about earlier?

A: I really don't know.

Q: One of the things I noticed here is that it says you are a battalion commander; in the American armed forces, that is a position of great prestige and respect.

A: Like I told you before, you cannot cover the sun with two fingers; everybody knows them. He would have a lot of militia and soldiers and everybody knows him. He would have a lot of area under his control. For example, [REDACTED] is a commander; every single person, boy and girl knows him. If you are a commander, everybody knows you. A lot of people would work for him. If one person says I was their commander, that would be different.

Q: Did you help fight against the Russians when they were in Afghanistan?

A: I didn't fight directly with Russians at that time. Inside the government, I fought against the Communists that were in Afghanistan.

Q: How long did you do that; do you remember?

A: I don't remember how many years, because we went somewhere and fought under the last President. When the holy war ended until the Communists fell, I dropped everything and came home.

Q: During the time that you were fighting Najibullah, did you have any position of responsibility or leadership?

A: No. I told this to the interrogators that I work for another commander; I was only a soldier or mujahidin. I had a dispute with this commander, so we moved to another commander. He slapped me, physically abused me and hit me so hard. This man was against the Taliban.

Q: When the Taliban was in charge of Afghanistan, did you fight with them or against them?

A: No, I didn't fight with them and didn't work with them. I am nobody, not a strong person. They took me one day to prison.

Q: The Taliban?

A: The reason was that when they called for the prayer, a policeman asked why I didn't go to prayer. I was in the gas station, so he took me to prison for missing the prayer.

Q: When you were not fighting or involved in all these disputes, was the primary means of supporting yourself running your gas business?

A: We didn't have the gas pump before; we just opened it up during Mr. [REDACTED] time.

Q: How did you support yourself when you didn't have the gas pump business?

A: We are six brothers; three working outside in the Arab world. One brother drives his car, and one is sick at home, and one to take care of family and kids and works on the farm.

Q: So the only way to feed your family was to work on the farm?

A: We are a big family, and need one other person to control and watch over the whole thing; in sickness and in health. I have one driving car for money and the others in the Arab world give us money. They need one other to take care of everything for the family.

Q: Thank you for all the information; you seen very cooperative and willing to help. I noticed in the camp, that there are three colors to the uniforms (orange, tan and white). What do you do to still be in an orange uniform as opposed to tan or white?

A: I don't know. I heard only people having problems with MP's wear these colors, or go to a different camp. I don't know why they keep me there.

At this time, the Tribunal Member thanked the Detainee for his testimony, and the Detainee made a statement.

Detainee: I am so sick. I have been sick for two years and no one has taken care of it.

Tribunal President: You made mention of that in the Detainee Election Form, and the Personal Representative has identified that.

Detainee: I thank him for helping me because my teeth were in pain, and the doctor took my tooth out. I asked him for a book and he gave me a book. I pray for him every day.

Tribunal President: You are absolutely correct; you are represented by one of our best Personal Representatives.

Detainee: Yes.

Tribunal President: I just have one last question for you. Have you ever been a part of or a supporter of the Taliban?

Detainee: Again, you can't hide the sun with two fingers. In the whole Khost area there was only 5 or 6 Taliban. In whole camp, there were more than 30 people, and if you asked them, they would say no more than 5 or 6.

The Tribunal President then thanked the Detainee for his testimony and asked the Tribunal if there were any further questions. A Tribunal Member then posed one final question.

Tribunal Member: Of those 5 people in Khost that were a part of the Taliban, hopefully you were not one of them.

Detainee: Everybody knows, the whole world knows, one cannot hide if they are Taliban. If I stayed one night with the Taliban, you could keep me here for 20 years. I did not spend one day with the Taliban.

Tribunal Member: Thank you.

Detainee: I ask you for help. I never had a problem or have never been angry at America. I am angry with my own country's people. I hope you find who made these allegations against me, and destroyed my whole life. I hope in the future, you will give the just punishment for them because they hurt me a lot. I have no problems, and I am not mad at America.

Tribunal President: Do you have any other information to present to this Tribunal today?

Detainee: Which, or what kind of information?

Tribunal President: Anything else that you feel is important as we make our determination.

Detainee: Like before, when I talked to my dear representative, I have thought many times and have many thoughts about the person that collected the ammunition. If I knew who this was I would tell you the name willingly or gladly, and I would tell you if I was with them or not with them.

At this time, the Personal Representative submitted into evidence Exhibit D-b; the Exhibit contained the questions the Detainee would've asked the Witnesses had they been there, to assess the thought processes of the Detainee.

Tribunal President: As with all the evidence that we've received today, we'll take all of it into serious consideration.

Detainee: Could I ask one more question?

Tribunal President: Certainly.

Detainee: I was working as a part of the government. If you find me guilty, you should keep me here. If I am not an enemy combatant, I ask to be released to my home country, and receive my salary for the last two years.

Tribunal President: If we determine that you were not properly classified as an enemy combatant, all I can tell you is that you'll be released to your home country as soon as arrangements can be made. Anything other than that, you'll have to pursue by other means at that time.

Detainee: They will not give me anything because America took [detained] me, not us. They say America owes me. They want it from you.

The Tribunal President confirmed the Detainee had no additional information or questions for the Tribunal, and thanked him for his participation and testimony.

ISN# [REDACTED]

Enclosure (3)

Page 11 of 12

The Tribunal President then began to explain the remainder of the Tribunal process to the Detainee, but was interrupted when the Detainee stated the following.

Detainee: When will I see you [the Tribunal] again?

Tribunal President: We [the Tribunal] won't see you again. In about 30-60 days, someone will see you and identify the Tribunal results for you.

Detainee: What kind of news will you bring to me?

Tribunal President: That has yet to be determined; good day.

The Tribunal President then adjourned the open session.

AUTHENTICATION

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

[REDACTED]
Colonel, U.S. Marine Corps
Tribunal President

UNCLASSIFIED

DETAINEE ELECTION FORM

Date: 19 Oct 2004

Start Time: 1050

End Time: 1220

ISN#: [REDACTED]

Personal Representative: [REDACTED] MAJOR
(Name/Rank)

Translator Required? YES Language? PASHTU AFG

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:

I briefed detainee [REDACTED] on the CSRT system and he was eager to participate. He listened well and asked questions. The detainee wanted to call a witness and asked that we contact his father and brothers to be a witness for him. No telephone number was known. I will submit a witness request sheet to the Tribunal President. The detainees father and brother will testify about his pre-capture activities. [REDACTED] also suggested that the US get a list of known Taliban members from the intelligence service in Khoust and check to see that his name is not on it. He is confident that it is not. (note: as of 27 Nov 04, the request to the US State Department has come back negative). His first comment during the interview was that he wasn't feeling well and that he did not want to go to a tribunal until his health and dental problems were looked at. I discussed this issue with a JDOG CAPT and he said that there is limited dental care (1 dentist for all of JTF and Camp Delta) but there is weekly access to a medic for the detainees. I suggested to the detainee that he see the medic in his cell block.

Personal Representative: [REDACTED]

UNCLASSIFIED [REDACTED]

Exhibit D **4282**

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (01 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – GUL, Khi Ali.

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 forces engaged in hostilities against the United States and its Coalition Partners.
 - a. The detainee is associated with forces engaged in hostilities against the United States and its coalition partners:
 1. The detainee is associated with an individual known to have illegally procured and stockpiled several mortars, artillery pieces and rounds, a BM 12, rockets, DSHKS, and various small arms.
 2. The detainee is a Commander in a Jihadi Battalion.
 3. The detainee was a member of an organization known to have committed a terrorist act.
 - b. The detainee participated in military operations against the United States and its Coalition Partners.
 1. The detainee participated in planning the attack on U.S. Forces located at Forward Operating Base Salerno, 01 December 2002.
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

Exhibit

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R14283

Memorandum



To : Department of Defense Date 10/22/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Juno Jamison, OIC, CSRT

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 [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 03/24/2003

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, 10/22/2004

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

Personal Representative Review of the Record of Proceedings

I acknowledge that on 25 January 2005 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

[REDACTED] I have no comments.

My comments are attached.

[REDACTED], Major, USAF

Name

25 Jan 2005

Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (5)