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Summary of Administrative Review Board Proceedings for ISN 899

The Administrative Review Board was called to order.

The Designated Military Officer (DMO) was sworn.

The Board Reporter was sworn.

The Translator was sworn.

The Detainee entered the proceedings.

The Presiding Officer announced the convening authority and purpose of the Administrative Review Board proceedings.

The Administrative Review Board members were sworn.

The Assisting Military Officer (AMO) was sworn.

The Presiding Officer asked the Detainee if he wishes to make a statement under oath. (Muslim oath offered).

Detainee: When we swear the court will let us go. That is how our oath works.

Presiding Officer: Would you like to be sworn or not?

Detainee: If you want that kind of [oath] back home if they accuse you of killing somebody and you swear that you have not they will let you go. Do you want me to swear like you people?

Presiding Officer: Let the record reflect that I have requested a yes or no answer from the Detainee and he has failed to comply. The decision will be made on his behalf and we will continue.

The Detainee declined taking the oath.

The Presiding Officer read the hearing instructions to the Detainee and confirmed that he understood.

The Assisting Military Officer presented the Enemy Combatant Notification form, Exhibit EC-A, to the Administrative Review Board.

The Assisting Military Officer presented the Enemy Combatant Election Form, Exhibit EC-B, to the Administrative Review Board.

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Presiding Officer: Assisting Military Officer please read your comments from the Enemy Combatant Election Form.

Assisting Military Officer: The Detainee's initial ARB interview occurred on 30 August 2005 and lasted 45 minutes. After a review of the ARB's purpose and procedures, the Pashtu translation of the Unclassified Summary of Evidence was read to the Detainee. When asked if he wanted to attend the ARB, the Detainee stated he wishes to attend and speak openly with the board members. The Detainee prefers to respond to the Unclassified Summary of Evidence after each allegation is read during the ARB. He also wishes to give his oral statement. The Detainee elected not to have the Assisting Military Officer submit a written statement on his behalf. The Detainee was polite and cooperative throughout the interview. The Detainee elected to keep the Pashtu version of the Unclassified Summary of Evidence for his record.

The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, the FBI Redaction Memorandum, DMO-2, and the Terrorist Organization Reference Guide, DMO-3, to the Administrative Review Board.

The Designated Military Officer stated that a copy of these exhibits had been previously distributed to the Assisting Military Officer.

The Presiding Officer noted from the Enemy Combatant Election Form that the Detainee wanted to respond to each item of information from the Unclassified Summary as it was presented.

Presiding Officer: Let me caution you that you have not been placed under oath and reviewing boards may look at your case differently. Do you wish to reconsider?

Detainee: Well it is not important for me, but swearing has the trust worthy or is very important. Yes.

Presiding Officer: Designated Military Officer please administer the appropriate oath.

The Detainee accepted taking the Muslim oath.

The Designated Military Officer gave a brief description of the contents of the Unclassified Summary of Evidence, Exhibit DMO-1 to the Administrative Review Board to assist the Detainee with answering the statements.

Designated Military Officer: (3) The following primary factors favor continued detention: (3.a) Commitment (3.a.1) The Detainee claimed the Taliban conscripted him in approximately 1998, took him from his land and forced him to perform duties as a guard and general laborer for approximately two months. The Detainee claimed he was involved in one battle against the Northern Alliance, but stated his entire group (approximately 70 individuals) retreated and ran back to the Taliban facilities when the fighting started.

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Detainee: You can ask in Kandahar if the [Taliban] has [or has] not taken people by force then I will agree with you. You can ask anyone over there if the Taliban took people by force or not.

Presiding Officer: Sir, what we would like to do right now is [get] a short answer whether you agree with the statement or disagree with the statement. You will be given an additional opportunity to make a full and complete narrative statement at the end.

Detainee: Okay.

Designated Military Officer: (3.a.2) The Detainee worked for the Hizb-I Islami Gulbuddin (HIG) during the Mujahedin as an operator of the "I COMM" system, or communications system.

Detainee: No.

Designated Military Officer: (3.a.3) Hizb-I Islami Gulbuddin (HIG) was one of the major Mujahedin groups in the war against the Soviets. HIG has long established ties with Usama Bin Laden. HIG founder Gulbuddin Hikmatyar ran several terrorist training camps in Afghanistan and offered to shelter Bin Laden after the latter fled Sudan in 1996. HIG has staged small attacks in its attempt to force U.S. troops to withdraw from Afghanistan, overthrow the Afghan Transitional Administration (ATA), and establish a fundamentalist state.

Presiding Officer: Before you answer, if you don't know the information simply state that you do not know.

Detainee: I am not aware of this.

Designated Military Officer: (3.a.4) The Detainee was identified as a go-between and facilitator within a HIG operations cell in Kandahar, Afghanistan. He owned a small oil shop in Kandahar and used the shop to conduct meetings and as a contact point with other members within the cell.

Detainee: My shop was not an oil because back home when you are selling gas or kerosene we call it 'Tale'. If you sell cooking oil they call it oil. I was selling gas, kerosene, and petrol. I had that kind of shop not oil.

Presiding Officer: Let the record reflect that the Unclassified Summary paragraph number 4 where it shows the Detainee owned a small oil shop he was [actually] selling petroleum distillates. Would that make that statement true then sir?

Detainee: I told to the Americans that this was my shop and to come on in and see it. I showed them my home and my shop.

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Designated Military Officer: (3.a.5) In early September 2002, HIG commander Zabir Jalil directed the Detainee to carry out a terrorist operation targeted at U.S. Military personnel located at Gecko base, Kandahar, Afghanistan. Jalil sent a second unidentified individual who was allegedly an explosives expert from Jalalabad, Afghanistan, to assist the Detainee in the attacks.

Detainee: No.

Presiding Officer: Before you go on we need to go back to the last bullet. You commented on the correction regarding the oil. What are your statements regarding that you were a go-between the HIG and the operation cell as a facilitator.

Detainee: No. When you have...are accusing me, do you have any documents or any evidence about it?

Presiding Officer: No, not at these proceedings, these are allegations.

Detainee: I accept that, but if you say these allegations, do you have any documents that show that this is true or not?

Presiding Officer: I am not authorized to answer questions of that nature in this proceeding.

Detainee: You don't have to answer me. Just say if you have [any] documents [or not].

Designated Military Officer: (3.a.6) On 9 November 2002, the Detainee delivered a radio-controlled binary detonation device and two blasting caps to an operative working within his organization. The Device was to be used in conjunction with two mines. The intended use for those items was to target American civilians or U.S.-led coalition military patrols.

Detainee: No.

Designated Military Officer: (3.a.7) As of early September 2002, the Detainee was trying to purchase two rockets through an intermediary.

Detainee: No.

Designated Military Officer: (3.b) Training: The Detainee stated he was taken to a HIG training camp in Pakistan. They were trained on the use of cannons, radios, rockets, mortars and RPGs.

Detainee: No.

Designated Military Officer: (3.c) Connections/Associations (3.c1) The Detainee contacted other cell members solely through radio communication and acted as

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messenger between cell operatives and Noor Agha. Materials and direction for operations were controlled by Noor Agha with the cells kept separate from each other through communications passed by the Detainee.

Detainee: No.

Designated Military Officer: (3.c.2) Noor Agha was the facilitator and command element of the cell. He brought supplies and explosives from Pakistan through border crossing points in the Spin Buldak district. Agha received his orders and operational supplies from Zabit Jalil in Quetta, Pakistan.

Detainee: No.

Designated Military Officer: (3.c.3) The Detainee's uncle is Zabit Jalil, a commander in HIG.

(The translator explains the term "uncle" is his language:)

Translator: In English if someone is your mother's brother you call him uncle and if someone is your father's brother you call him uncle. In our language a father's brother is called *kaka* and a mother's brother is *mama*.

Detainee: It was my not my father's brother it was my mother's brother.

Presiding Officer: So, that is true as to the mother's brother.

Detainee: In Russian time he was a commander for Gulbuddin. Now he is with the Karzai government.

Presiding Officer: Thank you for clarifying that.

Designated Military Officer: (3.c.4) Zabit Jalil has a direct association with Gulbuddin Hikmatyar and attends meetings with him. In addition Hikmatyar, Jalil maintains contacts with extremist Arabs and Kashmiris in Pakistan as well as specialists that manufacture the radio-controlled detonation devices.

Detainee: Zabit Jalil is in Pakistan and I am in Afghanistan I am not aware of [this.] His house is in Pakistan and my house is in Afghanistan. The spy or intelligence service that got this information for you...tell them to provide evidence for you.

Designated Military Officer: (3.d) Other Relevant Data: Upon capture, numerous weapons were found in the Detainee's family orchard to include 2 tanks, rockets, Kalashnikovs and other guns. The Detainee was also found with a 50-meter spool of detonation cord.

Detainee: No.

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Designated Military Officer: (4) The following primary factors favor release or transfer. (4.a) The Detainee was asked whether he was told by his uncle to place explosives. He answered decisively no.

Detainee: Yes.

Designated Military Officer: (4.b) The Detainee claimed ignorance of his uncle's activities. The Detainee stated that while his uncle was in Afghanistan the uncle worked for the Karzai government, therefore Detainee also worked for the Karzai government.

Detainee: Yes, my uncle was working for the Karzai government and I was driving for them for a while.

The Designated Military Officer confirmed that he had no further unclassified information and requested a closed session to present classified information relevant to the disposition of the Detainee.

The Presiding Officer acknowledged the request.

The Presiding Officer opened the Administrative Review Board to the Detainee to present information with the assistance of the Assisting Military Officer.

Assisting Military Officer: Yes sir, the Detainee wishes to make an oral statement.

Presiding Officer: You may begin your statement.

The Detainee made the following statement:

Detainee: If you accuse somebody of doing something, do you have any documents for it? When the spy or the intelligence [person] told you that I was this and that could you please ask the intelligence person if they have any back up or documents for it? The intelligence people...the Afghans caught me and took me to the Americans. I talked to the Americans and I showed them my house and I showed them my shop. Those Afghan people took my money and my motorcycle and gave me to the Americans. I talked to the Americans and told them that this is my life, this is my home, and this is my shop. I was not America's enemy and America was not my enemy. America did not know me. When they handed me to the Americans I told them every condition of my life and every answer of my life correctly. The Afghans came and they threw away the stuff from my shop and they did not find anything. They went to my home and an American was there and they didn't find anything. In my home the wires...I don't have power directly to my house that I rent. I was wiring it from the neighbor's house and that is why they found those wires. The Afghans took me to Kabul and they gave me a hard time. When they gave me to the Americans I was all right. I had water and everything. When the intelligence people, the reporters, or spies...for their name and credit, they were capturing everybody to give them to Americans to get money. Now the government will be better and there will be no spies [but] I don't know. Ask everybody about the Taliban

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time. They were forcing people to join them. This says that I was a communication person. [I can] only speak Pashtu and I cannot speak another language. I have no connection with Gulbuddin. I am a shopkeeper. At first I had a big garden and when my garden dried out I had no choice but to come to the city. I had my family and my store or shop and then this subject came out. They said I had an oil store, but it was for petrol, gas, kerosene and these things. The Americans came to the house and searched the house...why did they pick me up? It says my uncle told me to attack Americans. How can I attack Americans? With my hands or what am I supposed to do? When you receive the reports that this man is doing this or this...how was I doing this attack?

(Board member interrupts with the following question:)

Board Member: Are you saying your uncle told you to attack Americans?

Detainee: Number 5 says in December Zabit Jalil and Gulbuddin told the Detainee to attack the American compound in the Gecko Kandahar...

(Presiding Officer interrupts with the following question:)

Presiding Officer: The question is did your mother's brother tell you to attack Americans?

Detainee: No, my uncle is in Pakistan and I am in Afghanistan. I have no connection regarding this with my uncle.

Presiding Officer: Sir, I note that you are going down the statement a second time. We have already heard your statement. Do you have any new information that you would like to present the board?

Detainee: You said one answer...go to my area and Americans are there and they can ask the people there. Don't ask the spies. Ask the people around my place and me if I was a danger to America. If I will be a danger to America then don't let me go.

Presiding Officer: Does that conclude your statement?

Detainee: You have Kalashnikovs and rockets those [things] were no with me. I did not have them.

Presiding Officer: Yes, you have denied that and told us that is not true.

Detainee: You have to show me the evidence.

The Assisting Military Officer had no further questions for the Detainee.

The Designated Military Officer had no further questions for the Detainee.

Administrative Review Board Member's questions:

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Board Member: What level of schooling have you received? What is your education level?

Detainee: I read the Koran and I don't know the meaning of it, but I can read. I don't have any schooling.

Board Member: In the battle that you were involved in with the Northern Alliance did you fire your weapon?

Detainee: No.

Board Member: Have you been trained on radios or other communication systems?

Detainee: No.

Board Member: In the family garden/orchard were there weapons or munitions there?

Detainee: My house and my garden are to far away from each other.

Board Member: You mentioned wires during you statement, but did you mean detonation cord or electrical wire?

Detainee: Electrical wire. Not even a stick or anything else.

Board Member: Have you ever seen anyone manufacture improvised explosive devices or laying minea or anything like that?

Detainee: No, the people that make those things are not doing it in the public or in front of me. I have not see this.

Board Member: So, you have no evidence of this?

Detainee: No sir.

Board Member: Do you have family in Afghanistan?

Detainee: Yes, why not?

Board Member: Are you in contact with them at all?

Detainee: Yes.

Board Member: If you were released, how would you support yourself and your family?

Detainee: My [great] grandparents, they left me a garden and land and I will be busy with those things. If there is no water or a drought I will be busy with my shop. I have a

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pomegranate garden. When they are produced we start selling them. I am happy here I just want to go ask that if I was a threat to America then keep me here.

Board Member: You say you were forced to fight against the Northern Alliance, did they just put you on a truck and hand you a gun?

Detainee: We had a village or government with all gardens. They came and told us that we had to give them money or a person...

Board Member: No, my question is when were you sent to fight did they just put you on truck and give you a rifle or did they...

Detainee: Yes, they gave us a gun and they told us to go on.

Board Member: Did they show you how to use the gun?

Detainee: No.

Board Member: It was basically here is a gun, get on the truck, and go to the front.

Detainee: Everyone knows how to shoot a gun. It is not a big deal.

Board Member: So, you were familiar with weapons?

Detainee: Not other weapons, but a Kalashnikov yes. I learned that from these people. On the same day they said just pull of the gate and start firing.

Board Member: Were you trained the same day you were sent to the front?

Detainee: Yes, the same day. A lot of days passed and there was no war and the weather was very cold. We spent two months in the cold weather.

Board Member: During those two months you did you fight or not fight?

Detainee: No, there was too much snow and cold it was.

Board Member: You did not train either? Did you just sit in a ditch?

Detainee: There was a room and we were sitting in room.

Board Member: Just sitting and waiting?

Detainee: No, they would not let us go. A guard was standing outside the room and after two months they let us go. So, they brought us back and left us in our province. When they dropped us off they picked up others. Some people said they would not go with them and they broke their legs and hands. I did not have money to give them to get

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released or for them to leave me alone. Then I told them I would leave the garden to them.

Board Member: I don't need to know that. Lets go to the point where you were captured and you said you took them to your house.

Detainee: Yes, I led them to my house for the search.

Board Member: Were you going to take them to your garden also?

Detainee: The garden...they made up the story that there was a garden. Americans asked me what was my evidence to back up my story and I told them that this is my shop and this is my house.

Board Member: Are you saying that you did not have a garden?

Detainee: Do you mean like a back yard garden?

Board Member: I am talking about you were speaking about earlier that was away from your house.

Detainee: I don't know if they have been in my garden or not.

Board Member: No, my question is were you going to take them to your garden also?

Detainee: Yes.

Board Member: You did not know that there were weapons or tanks there?

Detainee: No, there was not even a stick there.

Board Member: So are you saying that these tanks, weapons, and RPGs were not there? They were not found?

Detainee: No, they [were] not found in my garden. When Americans find something they take a picture of it to have evidence. When I took them to my house and my store they took my pictures there. At all of them they took my pictures. They didn't find anything in my garden or in my house.

Board Member: So are you saying that when they went to your house they did not find any documents?

Detainee: No, they found one document and I explained it to them. It was the numbers of the weapons on one document there. My uncle gave me that paper and I asked him why was he giving it to me. He said when he was working for Mujahedin or whatever, when the Taliban comes, if you are working for the government they give you a lot of weapons. You have to show the papers to [prove what you did with the weapons].

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Board Member: So, you had in your house a list of weapons that don't exist?

Detainee: It is written on the paper that [a certain] weapon has been given to [a certain] person.

Board Member: What weapons? You said they don't exist.

Detainee: [Those] weapons did not belong to Gulbuddin they belonged to Karazi. My uncle, when he [stopped] working for Karzai...the weapons that my uncle had been giving back to the government, [that paper] was the receipt. [If] they asked him what he did with the [weapons] he had the receipt and said he had given them back to the government. It belonged to the Karzai government. That was with my uncle and he gave it back. He gave it to the Karzai government.

Board Member: Where were the weapons that you were keeping that you were giving to the Karzai government? Where were they?

Detainee: It is written on the paper that is in the city.

Board Member: Not my question, not my question, not my question!

Detainee: My uncle was a Karzai government commander and these weapons were from when they announced that they were coming back and they brought their weapons. [My uncle] was the one that gave them back to the government.

Board Member: Okay. I am going to ask you this questions one more time. Where were the weapons that were on that document that you transferred to the Karzai government? Where did you keep them?

Detainee: It was in his hand. [It was] in my uncle's hand.

Board Member: All of the weapons?

Detainee: When the commanders of the Karzai side came to Kandahar, they took over Kandahar, these weapons were in their hands. My uncle is Karzai's friend. When they came and took over...

Board Member: You can stop. Do you know Zabith Akram?

Detainee: During the time of the Karzai government Zabith Akram was the Security Chief in Kandahar.

Board Member: Do you know him?

Detainee: My uncle was the commander under him. I want to answer that question again.

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Board Member: Which question?

Detainee: The one from a minute ago. I want to clear up the weapon thing. My uncle is Karzai's friend and is very close. My uncle was a very close friend of Karzai and he gave my uncle a job...

Board Member: That does no answer the question I asked. I am not concerned about your uncle being a friend to Karzai. I want to know where the weapons were. That was my question.

Detainee: Well that was in his hand.

Board Member: Just one more question. What documents or evidence do you have that what you are saying is true? Do you have documents from the Karzai government or from your uncle?

Detainee: I am a prisoner and I cannot reach my house and I cannot give you any evidence.

Board Member: So, you don't have anybody that writes you or you don't write anybody?

Detainee: This is my document, that is my house and that is my store. You can ask them now. Before that people were drug addicts and using that powder and now people are better off. You can ask them now.

Board Member: So your uncle does not know you are here?

Detainee: You don't know the difference between father's brother and mother's brother.

Presiding Officer: Thank you. We have got it.

The Presiding Officer read the post-Administrative Review Board instructions to the Detainee.

(The Detainee interrupts with the following question:)

Detainee: Is the date set [for the notification]?

Presiding Officer: That is correct, the date is not set.

The Presiding Officer adjourned the open session of the Administrative Review Board.

The Presiding Officer opened the classified portion of the session.

The Presiding Officer adjourned the classified portion of the session and the Administrative Review Board was closed for deliberation and voting.

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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.



Colonel, USA
Presiding Officer

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