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(Revised 14 Dec 05)

Summary of Administrative Review Board Proceedings for ISN 934

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 was sworn.

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

Detainee: I do not need to lie. If it is necessary then I will swear.

Presiding Officer: It is not necessary; it is entirely up to you.

Detainee: Yes, I will swear.

The Detainee accepted taking the Muslim oath.

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

Detainee: What is the classified evidence?

Presiding Officer: It is of a classified nature.

Detainee: Well why can't I see those things?

Presiding Officer: For security purposes.

Detainee: I cannot do anything. I cannot destroy anything. I understand, but from now on when there is a question I will ask.

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

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Detainee: I have a question.

Presiding Officer: What is the question?

Detainee: Who identified me as an Enemy Combatant?

Presiding Officer: That was determined by the CSRT. That is not the purpose of this board.

Detainee: I refuse to be an Enemy Combatant. I am not an Enemy Combatant. What was used for the decision to identify me as an Enemy Combatant? I am not an Enemy Combatant.

Presiding Officer: That is already determined.

Detainee: Well, since they already identify me as an Enemy Combatant, you base your decision about me being an Enemy Combatant right?

Presiding Officer: That has already been determined. That is not the purpose of this board. We will continue.

Detainee: You guys swore to do justice. Talk to me straight.

Presiding Officer: Yes, we are. Now we will continue.

Detainee: Well I am telling you the truth. From the last decision, they identified me and now you know me as an Enemy Combatant. I just want to talk about that.

Presiding Officer: You will be given an opportunity to make your statement about that later.

Detainee: Then I will talk to you until the evening.

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

The Assisting Military Officer read the AMO Comments from the Enemy Combatant Election Form, Exhibit EC-B.

Detainee: I have a question.

Presiding Officer: Alright. What is your question?

Detainee: You bring me the evidence to prove that I am an Enemy Combatant and then you can talk to me.

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Presiding Officer: The information was already presented to you.

Detainee: That's the allegations, but you did not bring me the proof.

Presiding Officer: We will get into that now.

Assisting Military Officer: The detainee's ARB interview was conducted on 01 December 2005 and lasted 60 minutes. After reviewing the ARB's purpose and procedures, the Pashto translated Unclassified Summary of Evidence was read to the detainee. The detainee said that he understood the difference between the CSRT and the ARB. When asked if he wanted to attend the ARB, present a written or oral statement, or have the AMO speak on his behalf, the detainee said, he would attend and answer the allegations after each point is read. The detainee stated that he did not have any written statements to be presented to the board members. The detainee was very polite, and attentive. A copy of the Pashto translated Unclassified Summary of Evidence was given to the guard to make available to the detainee for his review.

The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1 and DMO-2 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 and Detainee.

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.

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.

Designated Military Officer: An individual approached the detainee when he was coming out of a local mosque one night and asked the detainee to help him fire rockets.

Detainee: No, I did not say that. I did not say come and go help fire the rockets; I said I sold the rocket and carried it with me.

Board Member: Who was the individual that you sold the rocket to?

Detainee: Skanda Shah.

Designated Military Officer: An individual stated that he was sent to find the detainee to fire rockets against the United States air base at Kandahar.

Detainee: Well, who gave that statement? Answer me. Are you not going to tell me the name of this man?

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Board Member: No.

Detainee: Well, goodbye. What kind of justice is this? You all swore just a few minutes ago.

Board Member: The statement that was just read, is it true or not?

Detainee: Who gave the statement?

Presiding Officer: What is your response to the statement? Do you deny it, accept it or do you have something else to add to it? You are here to respond to those statements and whether or not you agree, disagree or have something else to add.

Detainee: Can you answer the detainee's questions?

Board Member: We are here to ask questions not answer them.

Detainee: This is not justice.

Presiding Officer: This is not a court.

Detainee: Did they send these Administrative (Board Members) people to just be cruel or to be cruel towards me?

Presiding Officer: We will continue.

Detainee: You are making a decision about something, right?

Presiding Officer: We are making a recommendation. That was explained to you.

Detainee: You don't have any evidence or know the name of this man, then how can you make a recommendation?

Presiding Officer: We will continue.

Designated Military Officer: The detainee took part in a rocket attack on the Kandahar airfield in November 2002.

Detainee: I did not take part. I sold the rocket and he asked me to help him carry it. I did not fire any rocket.

Designated Military Officer: The detainee walked with another individual to a place where several rockets were buried. They took the rockets and walked to where they

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would set them up for launch. The two prepared the rockets for launch and then ignited them. Following that, they left and didn't witness the launch.

Detainee: It was dark at night. He said he sold it (rocket) we went there and he said he would bury the rockets. They put the gunpowder under it and then we left. When we left the rockets started flying.

Board Member: Where did you get the rockets to sell? Where did they come from?

Detainee: When the Taliban left I took the six of them and buried them. Our village is very close to the airfield. When the bombing started the Taliban ran away and left their weapons so everybody took some and ran.

Board Member: Do you admit to launching the rockets on the airfield?

Detainee: No, the other guy put down the gunpowder. He told me to just watch to make sure nobody shows up. He told me he sold the rockets to someone else, but he didn't sell it to anyone; he started firing them.

Board Member: So the rockets you sold to the individual that actually did the firing you gathered up as the Taliban ran away. What was the purpose of gathering the rockets and burying them?

Detainee: I don't know his purpose, but one guy was running with one thing and another guy was running with another thing. They (Taliban) even left their vehicles.

Board Member: What was the name of the person who lit the rockets?

Detainee: Skanda Shah.

Board Member: The same person from the Mosque?

Detainee: Yes.

Designated Military Officer: The detainee and another individual fired rockets on two consecutive nights.

Detainee: It was the same guy and it's not two nights back to back. Not in two nights, in one night the rockets were fired.

Designated Military Officer: The detainee was arrested by Afghan Forces for assisting an individual in a rocket attack against the United States at Kandahar airfield.

Detainee: Yes. The other guy was accused and because of him they captured me. I was sitting in my village when they came and arrested me. He buried three of them in the village as well; I pulled those out and gave it to the Afghan forces. I gave information to

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the Afghan and American soldiers. I went there and he told me he sold them. I didn't know he was going to fire them. He promised me money and he still hasn't given me the money.

Board Member: When you were captured you said that you gave the Afghan forces some rockets?

Detainee: Yes.

Board Member: Were you captured with them in your possession?

Detainee: Altogether there were six of them, we took four and two were left in the village.

Designated Military Officer: The detainee was identified as part of the 40-man unit.

Detainee: I haven't told them this. If you have any documents then bring it.

Designated Military Officer: One of the tasks of the 40-man unit was to provide protection to al Qaida for travel in Afghanistan.

Detainee: Sir, I have not seen this or that 40 people group, but the village is too close to the airport.

Designated Military Officer: The detainee was seen launching a rocket against a United States aircraft near the Kandahar airport.

Detainee: Do you have any witnesses? Has someone seen me? Well, they wrote it down that someone has seen me. This is the allegation but can you tell me who, when, how? These are all false allegations. You can go to my village. It is close to the airport in Kandahar and you can ask everybody who and what kind of man I am. You can even send a couple of soldiers to buy cigarettes and they can ask what kind of man I am.

Designated Military Officer: According to the detainee, when he fired the rockets, he was not following a commander; he was just doing it for money.

Detainee: Yes. I was not aware of him firing the rockets. I sold it and I just carried it with me close to the airport.

Designated Military Officer: An individual states that the detainee was paid money from al Qaida for the missile attack. He also stated that the detainee's military expertise was missiles.

Detainee: I have not been in the military. I cannot even write my name. You are accusing me, you are not telling me the facts. What is real, the truth? I am not refusing

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the facts and what is real but some of them are not. An Afghan soldier came and asked me to help the guy. The two are here with me.

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.

Detainee: I don't understand. You want to have a session with me or you want to do it by yourself?

Presiding Officer: We will do it by ourselves.

Detainee: Whatever you say is okay.

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.

The Presiding Officer had the Assisting Military Officer read the Detainee Comments from the Enemy Combatant Election Form, Exhibit EC-B.

The Assisting Military Officer read the Detainee Comments from the Enemy Combatant Election Form.

Assisting Military Officer: After the allegations to the Unclassified Summary of Evidence were read, the detainee stated that the allegations were false. He also stated that he had a lot of questions to ask the board. I (AMO) explained to the detainee that the board might not be able to answer all of his questions...the reason would be given if that being the case. It was explained to the detainee that he should use this time to address issues that can help the board in their decision-making regarding his detention. He indicated that he understood and appeared enthusiastic about attending the ARB.

The Detainee opted to make a statement:

Detainee: What am I supposed to say?

Presiding Officer: You stated you would like to make a statement to talk about these allegations? This is your opportunity to talk to the board.

Detainee: I forgot it. I am not a professor. I only remember one thing, what is a masked document?

Presiding Officer: It contains information that is classified.

Detainee: What is the meaning of it? Can you tell me the meaning of it?

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Presiding Officer: Information that is not released to people who are not authorized to see them.

Detainee: Who are the people that are not authorized?

Presiding Officer: Most people are not authorized to see them.

Detainee: Only reading is not permitted or listening is not permitted?

Presiding Officer: Listening and reading is not authorized.

Detainee: If it's all about my interrogation, then how come I can see it? When will I be aware of those documents?

Board Member: You will not be, there are a number of items that are classified information. They come from many different sources. It is to protect the means and the sources of where all this came from. You do understand if you knew where it came from it may cause a problem.

Detainee: Well I know you have information about me. One day will you discuss it with me or not?

Board Member: We will not. Our job is not to determine whether you are guilty or innocent. Our job is to determine where you go from here. You can participate and help us make that assessment or you can elect not to.

Detainee: Why are you making me tired of talking? I will talk to those people that have accused me of being a criminal or guilty.

Board Member: Those people cannot help make the decision whether you stay or go. Your guilt or innocence was determined long before. We are not here to say you are guilty or innocent. We are here to decide whether you leave or stay.

Detainee: I don't believe that you have the authority to keep me or send me. When you don't have the authority or power to talk to me then how can you send me home?

Board Member: Certain things we just don't talk about. We want to hear your story. How did you end up here and your not guilty? You tell us what kind of man you are.

Detainee: Well, yes, I will tell you, but if I have a question again and you cannot answer that will be a problem.

Board Member: You are here to tell us what you are about, what you are like? You don't need to hear anything from us; we are here to hear from you.

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Detainee: I will talk to you legally. I am here because of your (Americans) cruelty. I sit here because of you being cruel to me.

Board Member: Do you have anything more to say about the allegations in the Unclassified Summary?

Detainee: Yes, I do so you have to listen to me. Can you find the difference between the facts and the allegations?

Presiding Officer: We understand the difference but you need to respond, if you wish to.

Detainee: Some of the allegations written here are wrong. Just clean it up and then present my case to a judge and he will let me go or keep me. What can you do with me? Can you put me in detention? I am already here.

Presiding Officer: Does that conclude your statement?

Detainee: Yes. Sometimes you say one thing and then another thing. You can't talk to me straight.

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

The Designated Military Officer had the following questions:

Designated Military Officer: When you helped the al Qaida travel to Afghanistan, what did you do?

Detainee: Well I do not know al Qaida. So you prove it to me.

Designated Military Officer: No further questions.

Detainee: We fell under the control of anyone who had authority over Kandahar airport, because our homes are so close.

Administrative Review Board Member's questions:

Board Member: How would you characterize your behavior since you have been here?

Detainee: When you write down the name Shah, you can see the letter H.

Translator explains:

This is a proverb that we use an example would be when you write the word KING you can see the letter K. He basically means that you can see him for his behavior.

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Detainee: I am advising that when one of you asks a question the others should sit and think about their question.

Board Member: Before you sold these rockets and that individual launched them. What did you do to support yourself? Were you employed?

Detainee: I was a mason; I built walls and that kind of stuff. If no one has a question then I have a question.

Presiding Officer: In your statement you stated that you sold the rocket to Skanda Shah who told you that he sold it to someone else and he just needed you to help him transport it. Do you know who was supposed to buy the rockets from him?

Detainee: There was no man to sell them to. I didn't know about it; he didn't tell me I was just helping to carry the rockets. He was from our village. He was not working for al Qaida or anyone else. He just enjoyed seeing the rockets being fired.

Board Member: So this individual had enough money to buy a rocket just to see it being fired?

Detainee: In our country we fire a lot of them.

Board Member: You did admit to firing the rockets at the airbase for money?

Detainee: Yes, he (Skanda Shah) said just carry it with him and he promised me money for it. If I knew that he was going to throw the rockets or fire them then I would not have done it, but he told me that he sold it someone.

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

Detainee: When will I find out?

Presiding Officer: We do not know

Detainee: You know but you don't want to tell me.

Presiding Officer: There is a process that involves the case going to Washington D.C., we do not know how long that is going to take.

Detainee: I don't understand. You will send my case or a recommendation?

Presiding Officer: We send our recommendations and someone will make a decision and then you will be notified.

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

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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.

AUTHENTICATION

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

[REDACTED]

Colonel, USAF
Presiding Officer

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