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Summary of Administrative Review Board Proceedings for ISN 974

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).

The Detainee declined taking the (Muslim) 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.

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

Assisting Military Officer: The Detainee's initial Administrative Review Board interview occurred on 09 September 2005 and lasted 72 minutes. After a review of the Administrative Review Board purpose and procedures, the Pashto translation of the Unclassified Summary of Evidence was read to the Detainee. The Detainee remained polite and attentive throughout the interview. The Detainee wants to address the items in the Unclassified Summary of Evidence as each item is read. The Detainee wishes to submit a statement from his father attesting to his character, and he retained a copy of the Pashto translation of the Unclassified Summary of Evidence for further review. The

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Detainee expressed the desire to be monetarily compensated upon release for his time in detention.

The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, and DMO-2, other unclassified information 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: The Detainee was captured on 22 Feb 2003, when he fired on United States Security Forces, while they were conducting a search of a location containing land mines at Atburdah Village, Tirin Kowt District, Oruzgan Province.

Detainee: I [was] not aware [of the] American[s] coming there. I had no idea.

Presiding Officer: You're not answering the question. Do you understand...the question asked, "If on 22 February 2003, you fired on United States Security Forces?" You gave a very different answer when you had your interview.

Detainee: They said they were looking for mines. I don't know where the mines were. Where they (Americans) were coming [from]? I didn't know where they were and what they [had] come for. When I [went] to the middle of my yard I had a Kalashnikov with me. I heard [some] firing. I was so scared, because of the thieves and robbers around our village. Since I was so scared I fired three [shots] [in]to the air. [About] five minutes later there was a big light in the [sky]. I was [very] surprised. I had never seen those [lights] in my life. When I saw them I wonder[ed] if a plane [had] come and [dropped] a bomb on me.

Presiding Officer: Thank you very much for your answer.

Detainee: They injured me [with] the bomb. They saw my home. You cannot see anything from inside my house.

Presiding Officer: Thank you very much.

Detainee: How was I [the] enemy when they bomb[ed] me? They went to the Bazaar and [the next] morning [is when] they came back [to] my house and captured me.

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Presiding Officer: We understand. Next please, we have a lot more. We'll get through it.

Designated Military Officer: The Detainee was part of the firefight. He was prepositioned and hid out of sight. He fired with intent to kill or harm United States Forces and friendly Afghans.

Detainee: I don't know Americans. They [had] never been in my village before and I didn't know [what] they look[ed] like. When you don't know somebody how [can] you sit down and hide from them?

Presiding Officer: Next, thank you.

Detainee: They [were] never in my village. How can I just sit and hide [from] them?

Presiding Officer: So your answer is that you were not sitting in anticipation, you were not waiting for U.S. Forces?

Detainee: No, no. You can ask the whole village, I was a driver. I drove a bus. Since you don't believe me you can ask my village. You can ask [the entire] province what I was doing and who I am?

Presiding Officer: We have many items to go through and many of these will address the same issues you've already discussed and then we'll ask questions. I look forward to all of your answers.

Detainee: I [have] never been in a place like this and I [don't] know how to talk.

Presiding Officer: We understand completely. Thank you very much.

Designated Military Officer: The Detainee initially maintained he did not have a gun with him and did not hear gunfire or any noises. Then he stated that he thought someone was firing on his house, so he fired three gunshots into the air to scare them away. Later he admitted that he fired the bullets in the same direction that his neighbor Haji Gul Mohammed shot his bullets. He shot toward the people that were firing at Haji Gul Mohammed.

Detainee: I'm not aware. I [didn't] fire towards any side. I'm not aware of what happened. When I heard the firing I fired toward[s] the air. I didn't know [any] thing else.

Designated Military Officer: The United States Security Forces witnessed the Detainee firing.

Detainee: They hadn't seen my house. My house is among the other house[s]. How [could] they see me?

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Presiding Officer: We'll discuss more later, thank you.

Designated Military Officer: The Detainee was identified as working for Mullah Shokoor in Konduz. Mullah Shokoor was part of the main security escort for Usama Bin Laden during the time when Kabul, Afghanistan fell into U.S. hands.

Detainee: I don't know him, but you [can] go to my village and ask everybody. Nobody knows who Mullah Shokoor is.

Presiding Officer: You never heard of Mullah Shokoor?

Detainee: No. If anybody in our area has heard his name or if anybody knows him, let me know, because I've never heard [of him].

Presiding Officer: Thank you.

Designated Military Officer: The Detainee knows of Mullah Ghafur, the man whose compound was the target of the United States Security Forces search that evening. The Detainee described Ghafur as being "with the Taliban" during the movement's rule, however, he doesn't know about his activities now. Ghafur was arrested in Kabul at some point.

Detainee: I don't know Mullah Ghafur. If you ask the whole village if there is anybody named Mullah Ghafur...you can do whatever you want to me! If you [can] find [him] in our village and anybody proves that [he] is there and I know him...you can do whatever you want!

Designated Military Officer: The Detainee is an admitted opium farmer and dealer.

Detainee: The opium was in the whole area. This was everybody's business. It [was] not like me and somebody else. The whole village was planting opium. Everybody's business was making pretty good money. I was a driver and I was busy driving, but in my garden I was planting a little bit.

Presiding Officer: Thank you.

Designated Military Officer: He said he told lies in Kabul and in Bagram, and realized that lies were not going to get him home to take care of his wife and one-month-old son. He said he would no longer lie.

Detainee: Yes, it is true.

Designated Military Officer: The Detainee reiterated that he has no animosity toward the Americans.

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Detainee: No, no, no. We [don't] have [any] business with any government. I was just a driver. I drove my bus in the line and I [had] my own business. I'm very happy that people say the Americans are building the roads and building up Afghanistan. I'm happy with that. We are living in difficulties now. When the electricity comes and the roads are paved, we will have fair lives.

Presiding Officer: Thank you.

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.

The Assisting Military Officer presented a personal letter from Detainee's father, Exhibit EC-C, to the Administrative Review Board.

The Detainee made the following statement:

Detainee: In no way [did] I [have] animosity against you and I'm not having any animosity against you. I was poor man driving a bus on the line, going back and forth. The Americans have seen my bus. They can ask [anyone from] my village if I have been associated with the Taliban or any other [associations] like [them]. They can blame me. They didn't take me the night they bombed my house. They took me the following morning, after my father had gone to them. My father told them I was injured, they (*his family*) were trying to take care of me and I was not a criminal. The governor of our province and my father promised them (*Americans*) I was not a criminal and not guilty. The people (*Mullah Ghafur and Mullah Shokoor*) that they (*Americans*) mentioned before...I have never seen them. I [have] never seen the Americans before they came to my home and said that I [did] this and this. I [have] never seen them before and I have no idea [what they are talking about]. They told them that they would take care of my wounds and I have been here for three years. The letter from my father says, that the Americans promised them they would take care of me...what happened?

Presiding Officer: Thank you for your statement.

The Assisting Military Officer had no questions for the Detainee.

The Designated Military Officer had no questions for the Detainee.

Administrative Review Board Member's questions:

Board Member: What is your father's name?

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Detainee: Hajji Yar Mohammad

Board Member: Can you tell me about the incident when you were firing on American troops?

Detainee: Yes, why not? I'll tell you again. I was sleeping in [my] home. I don't know about the firing but it was like *translator imitates weapons firing*. I got up and I went to the center of my yard. When I was standing in the middle of my yard I heard a lot of firing. The only thing I did was fire three shots towards the air. I did that because there are a lot of thieves and robbers in our area. They come to kill you or to take your money. You are there in my country you know about the situation. They put a gun to my head and then they took my car.

Presiding Officer: Who took your car?

Detainee: Thieves.

Presiding Officer: I just want to make sure or clear that, that didn't happen that night. A time prior to that evening someone else stole your car?

Detainee: There are a lot of thieves and robbers. They took the whole car. They tied my hands and legs. They threw me in the ditch and took my vehicle. They said, "If I talk to them they would kill me." They've killed a lot of people. We found the vehicle with holes in it.

Board Member: I understand that you're talking about an incident that happened between yourself and some robbers, but to get back to this night when the Americans were there...it seems like you stated that you had shot towards the same people that your neighbor was shooting towards?

Detainee: I hadn't fired [in] any [direction]. I just [fired in] the air. At that time, I had no idea which way...from the sides.

Board Member: Could you see any other people there?

Detainee: No, no. I came to the center of the [yard]. I didn't see anybody. I saw lights. I did three shots in the air. [I thought that] if [it] was a thief they would go back their own way.

Board Member: Was there any other firing going on?

Detainee: No, I didn't hear any firing. I just saw big bulbs of light.

Presiding Officer: You thought the big bulbs of lights were thieves?

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Detainee: When I saw them, I was so surprised...[I wondered] what kind of things [they were]? I haven't seen [anything like it].

Board Member: Where were the lights coming from?

Detainee: The west side.

Presiding Officer: Why did you initially run out to your yard and start shooting?

Detainee: The firing scared me. I got scared and [thought] if they were the thieves they would run away.

Presiding Officer: Okay, thank you.

Detainee: I don't have any other idea what was going, what were those things? The lights I saw [made it look] like daytime.

Board Member: Let me see if I understand this right. You were inside your house and heard someone firing a gun?

Detainee: Yes. I heard a kind of a noise... *Translator imitates weapons firing.*

Board Member: You heard someone firing a gun outside?

Detainee: I heard some noise...making...*translator imitates weapons firing.*

Board Member: It wasn't gunshots?

Detainee: I don't know if it was a gun or what it was? When I came to the center of my yard it started doing it again. The second time it was gunfire.

Board Member: So you thought that when you heard some gunshots if you fired your gun...that would scare them away?

Detainee: Yes, it was thieves. They will...they jump on the walls and they come in. That's why I thought they would run away.

Board Member: Okay. Do you know Mullah Shokoor at all?

Detainee: No, I don't know him at all.

Board Member: Do you know why anyone would associate you with Mullah Shokoor?

Detainee: I don't know.

Board Member: Do you know Mullah Ghafur?

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Detainee: No, sir.

Presiding Officer: Who is the Mullah in your village? Mullah Ghafur is in your village.

Detainee: If anybody tells you that there is a home by the name of Mullah Ghafur or Mullah Ghafur's existence, I'll do whatever you tell me to.

Presiding Officer: Thank you.

Detainee: There is no Mullah Ghafur in our village. If you find him, definitely I am a liar.

Board Member: Was there any Taliban in your village?

Detainee: In my village there is no Taliban.

Board Member: Do you speak English?

Detainee: *Detainee laughs* Speak English, no.

Board Member: A little bit?

Detainee: Shower. "I want to take a shower." These kinds of things. I learned from the soldiers.

Board Member: Who owned the bus that you drove?

Detainee: It's a bus I have. I started from our village, then we start going some people flagging me or we pick up people, women, children... whatever.

Board Member: Who owns the bus?

Detainee: It belongs to me. It's mine.

Board Member: Who owns the house that you live in?

Detainee: It's my father.

Board Member: Who lives in the house with you?

Detainee: I cannot tell you the exact... counting. My sister, my father, my mother. We all are living in one house.

Board Member: How many houses are in your village?

Detainee: Well, it's the whole village?

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Presiding Officer: How big?

Board Member: How many houses?

Detainee: I haven't counted it.

Board Member: Are there many? Are there a lot?

Detainee: It's a lot.

Board Member: What road is your house on? Is it close to the road or is it off the road?

Detainee: The road is a little bit far from my house.

Board Member: How many kilometers?

Detainee: I don't know about the kilometers, but when you shout somebody in the road can hear you.

Board Member: Are your neighbors close by? Are your neighbors' compounds close by?

Detainee: It's kind of connected all together.

Board Member: The walls are connected?

Detainee: Some of them are connected [with] one wall together and some of them [have] a little alley, which the donkeys can pass by.

Board Member: The night that we're talking about, the night of the attack, were your neighbors shooting?

Detainee: The walls are too high. I don't know about my neighbors.

Board Member: Is the house West of you connected to your wall?

Detainee: Kind of like one side is connected, the other side is a little bit away.

Board Member: Could you see over your wall?

Detainee: No, I cannot see my neighbor. If you jump to the roof we could see our neighbor but we don't do that. It's a four-meter wall. How can I see over that?

Board Member: Is your opium crop inside of your wall?

Detainee: No, that's far away in the garden.

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Board Member: You lied in Kabul?

Detainee: I was scared in Kabul that's why I lied.

Board Member: You lied in Bagram?

Detainee: Yes, I lied in Bagram and I told them here that I'm not going to lie, not even a point.

Board Member: The Taliban has been in your village, right?

Detainee: If you find one, it means I lied all the way.

Board Member: Do you know any Taliban?

Detainee: No, if you find out from our province governor or any [of the] other people from this village [that there] are Taliban you can tell me whatever you like or I'm lying.

Board Member: You knew that the U.S. Forces were there, right?

Detainee: I didn't know that. I didn't know. They never [had] been in my village.

Board Member: You lived in Afghanistan, but you didn't know that the U.S. Forces were there?

Detainee: Yes, why not? Americans have a very good name [to] us. They [were] building roads and helping.

Presiding Officer: How are your wife and son, are they well?

Detainee: I don't know if they are dead or alive.

Presiding Officer: You've gotten no letters?

Detainee: Just a few months ago a letter came and my dad said in that they were alive. Even if they were dead they would not send me any letters saying that they are dead.

Presiding Officer: When you were originally captured you said you knew Ghafur...at one point you lied and said that you did know Mullah Ghafur?

Detainee: I never said [I knew] about Ghafur at that time.

Presiding Officer: Okay, at one point you made a statement to the U.S. that you knew Mullah Ghafur and you knew he was in the Taliban. You said that at another time.

Detainee: Mullah Ghafar or Mullah Ghafur.

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Presiding Officer: Mullah Ghafur?

Detainee: Well, you said Mullah Ghafar?

Presiding Officer: At one point you said you knew Mullah Ghafur?

Detainee: You keep saying Mullah Ghafar and there's Mullah Ghafur?

Presiding Officer: Do you know Mullah Ghafur?

Detainee: Yes, I know him back when I was driving and somebody would say that is Mullah Ghafur's vehicle.

Presiding Officer: For the record and I apologize for my mispronunciation, but we are using the one that is spelt here...Mullah Ghafur. You do know him?

Detainee: I don't know him personally, but when I was driving and his vehicle was coming people would say there is Mullah Ghafur...

Presiding Officer: Do you know Mullah Shokoor?

Detainee: No.

Presiding Officer: You do not know Mullah Shokoor, but you do know Mullah Ghafur?

Detainee: I have heard his name.

Presiding Officer: Okay, you have heard his name and you have seen him while you were driving your bus?

Detainee: When I was in the streets, I had seen his vehicle and people would say that is Mullah Ghafur's vehicle.

Presiding Officer: Is Mullah Ghafur in the Taliban?

Detainee: Yes, yes.

Presiding Officer: So there is Taliban in your area?

Detainee: He is from other village, Balut.

Presiding Officer: Okay, he's from the village Balut.

Detainee: If anybody in my village is named Mullah Ghafur...

Presiding Officer: You said your village is very big and you don't know every one there?

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Detainee: I can recognize Taliban if they come. They would bring their vehicles and these things...

Presiding Officer: Were there Taliban in your village?

Detainee: No.

Presiding Officer: No. Thank you very much.

Detainee: If you find it, I would [be] lying.

Presiding Officer: You have told us in the past. In the past you have told U.S. Forces that there was a Mullah Ghafur in your village and he was with the Taliban. You have made that statement to the United States before.

Detainee: No, he doesn't belong to my village.

Presiding Officer: Thank you. That evening when your house was bombed, the United States was looking for land mines. Do you know where the land mines are?

Detainee: Yes, I have heard of land mines.

Presiding Officer: Do you know where they were located?

Detainee: No, I don't know. If anybody says that I had mines or I know, then you can...

Presiding Officer: The United States Forces that were looking for land mines saw you that night. They say you were hiding and waiting and fired on them as they were looking for land mines.

Detainee: I haven't heard about the mines in my villages and I didn't know about the Americans there.

Presiding Officer: The United States Forces that captured you said that in that evening when they were searching for land mines they saw you waiting and you fired upon them.

Detainee: No, I haven't [didn't do] it [to] them. I'm not aware of...

Presiding Officer: Do you know if your neighbor, who was up that night...the United States was looking for land mines at your house and when they went there you were in hiding shooting is what they said. Do you know of any neighbors or anyone who may have had any land mines?

Detainee: No, I haven't. I don't know. Show me that you went for the other guy...you came for me...

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Presiding Officer: The United States was looking for Mullah Ghafur and they were going to your house. When they went there you were hiding [and shot] at them, is [the reason] why you are here.

Detainee: One time you said you were looking for mines and now you say you are looking for Mullah Ghafur?

Presiding Officer: Because Mullah Ghafur had the mines?

Detainee: If you prove that Mullah Ghafur had a house in my village you can do whatever you want to. If the name of Mullah Ghafur...if anybody has been found in my village...I will be a liar and a bad guy.

Presiding Officer: Why did you tell lies in Kabul and Bagram?

Detainee: They bombed me at home and they brought me there. I thought they were going to kill me anyways.

Presiding Officer: What kind of lies did you tell them?

Detainee: Anything they were asking me I said that I was not aware of.

Presiding Officer: You knew I was saying Mullah Ghafur, because he read it (*referring to the translator*) and pronounced it. Why did you say that you didn't know him earlier?

Detainee: Mullah Ghafar and Mullah Ghafur there's too much difference.

Presiding Officer: But our translator said the one that is written here and he pronounced it the same way and then you said that you knew him later on.

Detainee: There's too much difference between Mullah Ghafar and Ghafur.

Presiding Officer: I believe you. I understand. What are your plans if you go back to Afghanistan?

Detainee: I will drive and work.

Presiding Officer: I'm very happy to see you wearing white that means your behavior here is good.

Detainee: Well, I'm a poor guy. I don't know why you brought me here and make me sit here.

Presiding Officer: You're here because Americans thought you shot at them when they were looking for very dangerous things. That is why you are here.

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Detainee: Nobody believes me, so my words are nothing.

Presiding Officer: No, we believe you.

Detainee: In our village there is a lot of stealing, robbery these kinds of things. If you go to see my house; from my house you can only see sky.

Presiding Officer: Thank you very much for your information. You've given us [a lot of] information, very helpful.

Detainee: I gave you information. Why have I been sitting here for three years?

Presiding Officer: This is the first opportunity...you have already been determined. I had no part in that process; you were determined to be an enemy combatant. At this point and time, we are now looking at you. We are looking at the threat you possess. We will make a determination and a recommendation if you will be released, transferred or detained at this time.

Detainee: There is a phrase at home...you're telling me the white talk. When are you going to send me home?

Presiding Officer: You will hear very soon...

Detainee: If your heart get[s] clear I will tell you...I [have] never done anything in my life.

Presiding Officer: We understand what you're saying. We understand very well.

Detainee: They are not going to let us go. They don't care about us. They just think that we don't have anybody to care about us, so why would they let us go?

Presiding Officer: You will hear when a decision has been made. Thank you very much.

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



Captain, USN
Presiding Officer

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