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(Revised 10 Aug 05)

Summary of Administrative Review Board Proceedings for ISN 987

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 accepted taking the (Muslim) oath.

Detainee: Sir, I swear that I will honestly and truthfully will answer any question that you ask.

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 Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, (and DMO-2 to DMO-3, other unclass 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.

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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: Commitment, three potentially incriminating letters are associated with the Detainee.

Detainee: The three letters that you [mention] in this exhibit, I have no idea about. Only one letter...the first letter that they took to me at Bagram, Afghanistan was from Mulawi Kabir. The translator showed me the letter in Bagram that was written by Malawi Ahmed Jan...

Presiding Officer: What language is the letter in?

Detainee: In Pashto. Malawi Ahmed Jan is the one who wrote the letter. I had him in prison once...I arrested him once. Any letters should have a date or some numbers and that was at the time of the falling of the Taliban. I don't know who wrote this letter. I was not a civilian...I was a governmental officer. I fought the Taliban...I fought al Qaida. I was a Commander. During the time of the Taliban I was in Pakistan. When the war started and Americans came I was with the Northern Alliance fighting against the Taliban. The Regime that was there which is now the Ministry of Defense in Afghanistan...I was one of it's Commanders.

Presiding Officer: Since, you have gone beyond [answering] the first [allegation]; I am going to ask for the DMO to read his allegations down to number five.

Detainee: I will do it but let me finish my statement.

Presiding Officer: Please, one moment. AMO do you have any objections with that. He has gone beyond and into other areas and I'd like the record completed. He'll be allowed to make a statement.

Assisting Military Officer: If he can keep on track with his comments and we give him an opportunity...

Presiding Officer: You'll be given ample time to respond.

Designated Military Officer: Letter one alleges Detainee had prior knowledge of and failed to stop production of Improvised Explosive Devices (IED's). Letter one appears to have been written after the Detainee's arrest because it refers to him as the "previous security commander." The Detainee was the security commander until his arrest. Letter

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two was written on Mullah Mohammed Omar's official letterhead regarding a meeting and agreement that the Detainee and Malawi Ahmed Jan reached. The author is unknown.

Detainee: I was wondering...when I was there they said that Mullah Mohammed Kabeer wrote that letter and now when I came here [I was told that it was written by] an unknown person. What kind of accusation is that?

Presiding Officer: OK, please give us the name of the person you were told originally wrote the letter.

Detainee: Your investigator showed me in Bagram that that letter was in the name of Mulawi Mohammed Kabir.

Designated Military Officer: Letter three was addressed to the Nangarhar intelligence department and "all Taliban members." It identifies the Detainee and urges all recipients to offer as much help to him as possible.

Board Member: Obviously, we've had discussions about this case prior to this event. Just for purposes of expediency, [you need to know] that all three of us have not put much credibility to any of these letters that we received.

Presiding Officer: We feel [that] they are highly suspicious.

Detainee: If it is suspicious for you guys...so you are not sure so why are you guys detaining me.

Board Member: You are not asking us questions. I just want you know that we are not concerned so much about these letters. We don't think that they implicate you.

Board Member: Please answer number two concerning production of improvised explosive devices.

Detainee: I didn't have to. It was not necessary. Why would I make explosive devices? Why? I was a police officer, how could I do that?

Presiding Officer: Did you or did your subordinate police seize any improvised explosive devices?

Detainee: In the time that the Taliban fell, I was a Commander and I collected ground-to-ground rockets...I didn't seize any explosives but I seized that heavy machine guns, rockets, rocket launchers and I put them in a secure place. I have been accused of putting explosive devices behind that court. There was nobody in that court. It was an old building.

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Presiding Officer: OK, that refers to the next session...hold one moment. What I would like to do is read the next sessions that cover that area and then hear your side of the story.

Detainee: Yes, sir.

Presiding Officer: What I would like you to do is read "B" and "C" in its entirety then stop before you get to [number] four and we will allow the [Detainee] to respond.

Designated Military Officer: Connections and Associations, Detainee identified Jan as the Taliban Minister of Mines and Industry. The Detainee and others ambushed Jan and a group of Taliban, took Jan prisoner and beat him. Jan was released to the Pakistan government because it intervened. Other Relevant Data, the Detainee fought in the Russian jihad as a commander for nearly fifteen years. After the jihad, the Detainee served as the Deputy of Refugee Affairs in Jalalabad. During the Taliban era, the Detainee fought the Taliban. The Taliban captured the Detainee and held him for nearly two months. The Detainee was confined for a short time in his hometown until several Taliban captured the Detainee and held him until he lost consciousness. The Taliban released the Detainee after village elders spoke on his behalf. He was exiled from Afghanistan when he was released. The Detainee returned to Afghanistan and fought alongside the Americans during the assault on Tora Bora.

Detainee: You are going too fast for me; please let me answer each one of them.

Presiding Officer: OK, we can pause here. Please respond. If you bring up material that is farther down in our information, I am going to direct the DMO to catch up with you. Please proceed.

Detainee: That is why I asked you before to just give me one question and I will answer it and then another...and I will answer it.

Presiding Officer: But that is not what you are doing. You are giving a long narrative to a short statement.

Detainee: I will answer each question. I was with the Northern Alliance on the other side of the border of Afghanistan catching Taliban. I released those Taliban because of the Pakistan people. Then they compensated me for the cars and the weapons that I had confiscated. Because I was with the Northern Alliance, I fought the Taliban for six years and that is why they captured me.

Presiding Officer: So you were never a prisoner?

Detainee: Yes, they put me in jail at the time of the Taliban. When I released me, I went to Pakistan and captured them. How come is was [determined to be] an Enemy Combatant because I was fighting the Taliban and they put me in jail...how come?

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Presiding Officer: This board does not address the status of Enemy Combatant. That was a different board and we will not address that issue today. This board decides if you should be detained, transferred or released...that is all.

Detainee: Do you want me to answer or not?

Presiding Officer: Please.

Detainee: I [turned myself in] to the Afghan government to show them that I am not an enemy of Afghans or Americans. If they prove that I am guilty, they can keep me. If they don't, just let me go.

Designated Military Officer: After the fighting ended, the Detainee was appointed as commander of security for Shinwar District. The Detainee remained as the security commander until his capture.

Presiding Officer: Is that true?

Detainee: Yes, I was sitting in my office and they captured me.

Designated Military Officer: Two months prior to his arrest, the Detainee and the District commissioner discovered weapons stored in two locations, within and next door to the judge's office.

Detainee: Yes, the local governor and me found a cache of weapons, which included 210 rockets and other weapons. We brought them to our Commander's office and we put them together.

Designated Military Officer: Detainee claims he notified the governor, the military head of office and the intelligence office in Jalalabad but never received a response from anyone.

Presiding Officer: Is this true?

Detainee: Any weapons we found from the Taliban or other enemies, we brought them to the Commanding Office and every clerk or lieutenants each wrote it down by hand in a book. That is the kind of cache they have. Why did they say that I didn't inform them? Everything that we brought to the base was written down.

Presiding Officer: Is the statement true or false?

Detainee: We informed the governor.

Presiding Officer: Thank you.

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Designated Military Officer: Mid-February 2003, United States Security Forces (USSF) came to collect the weapons cache from the district governor. The Detainee says he was in Kabul and did not inform the USSF of the existence of the IED's.

Presiding Officer: First I want to know if this statement is true or false, then you can explain it.

Detainee: I have to explain it to you.

Presiding Officer: First, is it true or false?

Detainee: I'm sorry I have to explain it...

Presiding Officer: Stop! Were you in Kabul?

Detainee: At that time, my brother was coming from Hajj.

Presiding Officer: Were you in Kabul, yes or no?

Detainee: Yes.

Presiding Officer: Was this [at] about February or 2003?

Detainee: Yes.

Presiding Officer: Did United States United Forces come to your area?

Detainee: Yes.

Presiding Officer: All right, now please explain.

Detainee: I was in Kabul because of my brother and when the American Forces came, my subordinates and my boss, which was the county governor...they, one by one gave up their weapons to the Americans. If you don't believe me, you could contact Shinwar in Jalalabad. Any paper we send we keep a copy. The copy is there. We informed the government.

Presiding Officer: Is it your position that it was the governor and the local police that failed to turn over the weapons?

Detainee: We informed the governor and everybody in that county. You can go right now and you can see the whole document.

Presiding Officer: Thank you.

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Designated Military Officer: The Detainee was captured on 26 February 2003 while at his security compound.

Detainee: Yes.

Designated Military Officer: When informed that explosives were discovered behind the courthouse the Detainee admitted he was aware of the ammunition but knew nothing of explosives. The Detainee was arrested and taken to jail in Jalalabad.

Detainee: I told you before that I knew about the weapons but I did not know about explosive devices. If they capture that, they should at least show me. I was set up.

Board Member: (May I] clarify? The statement says that you knew about ammunition...

Detainee: Yes, I knew that we brought them a long time ago...I knew that we cache them in my command's depot.

Board Member: So you knew about the weapons and the ammunition?

Detainee: Yes.

Designated Military Officer: The following primary factors favor release or transfer, the Detainee characterizes two letters as forgeries. He said that the letter on Mullah Omar's letterhead was written by his enemies in an attempt to destroy his reputation.

Detainee: Yes.

Designated Military Officer: The Detainee claims that Haji Jabar, author of letter one is a liar and does not know why he would prepare a sworn statement against him.

Detainee: Yes.

Designated Military Officer: The Detainee said that many HIG members in his province are causing trouble. He does not support the operations of the HIG as they preach resistance to disarmament.

Detainee: Yes.

Designated Military Officer: The Detainee denies having any explosive devices or planning any attacks against the Americans.

Detainee: The Americans were our friends. How could I fight against them?

Designated Military Officer: Even while confined, the Detainee still considers himself a part of the government and is concerned with how stability could be achieved.

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Detainee: Yes.

Designated Military Officer: The Detainee characterizes the Americans as his friends and the primary reason that he was able to return to Afghanistan.

Detainee: Yes.

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 stated that he had no additional comments.

The Detainee made the following statement:

Detainee: Please talk about this letter, which was presented to the Presiding Officer.

Presiding Officer: Please begin your statement.

Detainee: Mr. _____ 4700, the Commander of Security in Jalalabad wrote to me. He said hello to me and he wrote "God willing" and the rest was redacted. The Security Commander in Jalalabad was my boss and he wrote this letter to me and he supports me. If I was a criminal or something...a con or a cheater...he would not be talking to me or writing me a letter.

Presiding Officer: Sir, do you wish to have a copy of that letter placed into evidence?

Detainee: Yes.

Presiding Officer: DMO can you please ensure that this is marked and properly presented? Is there any objection from the DMO if this exhibit is received?

Designated Military Officer: No.

Presiding Officer: Does that conclude your statement?

Detainee: No, I want to talk some more.

Presiding Officer: Please continue.

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Detainee: At the time that the Americans came I was in Pakistan and Rahim Wardak, which is one of the leaders of the (inaudible) group called me and asked to come back and fight the Taliban. Rahim Wardak, [who] is now the Ministry of Defense that is right [in place] now in Afghanistan, they told me to help the Americans and they gave us satellite telephones to gather information from the other side of the borderline. They introduced me to the American Consulate to bring the information to them.

Presiding Officer: Did you meet any Americans?

Detainee: Yes, I talked to the American Consul...I have talked a lot with him. These people introduced me to him.

Presiding Officer: Did you ever work with any special forces?

Detainee: Yes.

Presiding Officer: Soldiers?

Detainee: Yes.

Presiding Officer: Officers?

Detainee: Yes...you can ask all of those people in the American Forces.

Presiding Officer: What rank?

Detainee: Officers.

Presiding Officer: Do you remember any names?

Detainee: I lost a little bit of my memory but I have the names in a book that I had in Kabul, Afghanistan. You can ask the American Consul on the time in Afghanistan. There are secrets between me and the Americans that I cannot tell you.

Presiding Officer: Do you have any further information?

Detainee: That was one reason that explains why I am not a threat to Americans and the next reason is that I fought [against] the Taliban side by side in Tora Bora and I am on the cameras that the Americans have. If I lie those cameras or those satellites will not lie.

Presiding Officer: Were you in Tora Bora when Mohammed Karzai was almost killed?

Detainee: Yes.

Presiding Officer: By the American bomb?

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Detainee: Yes. I was in Tora Bora but I heard it on the radio. I was involved in the battle.

Presiding Officer: Did you work with Mohammed Karzai's group at all?

Detainee: There is a Commander named Abdul Qadir. I believe he is not there but his son is still there. You can ask him...I was there in Tora Bora. There were three Commander's in Tora Bora. One was Haji Zaman, who belonged to the Mahaz party. Commander Hazrat Ali was present there. These Commanders are witness that we surrendered Taliban and al Qaida and we captured them alive. I can tell you the name of the al Qaida members that are here. They don't know me but I know them. All of the Americans are aware that we fought together in Tora Bora and then I had some hostility with Hazrat Ali, he was a Commander...that is why I have been framed. I have been framed by those Commanders...I have some person problems with them. That was the problem.

Presiding Officer: OK, we are going to move to the next phase now.

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:

Board Member: Were any improvised explosive devices produced at your compound while you were the security Commander?

Detainee: No, sir.

Board Member: Were any munitions removed from your area?

Detainee: No, sir.

Board Member: Were any explosives removed from the munitions?

Detainee: No.

Board Member: What was the purpose for keeping these weapons at your compound?

Detainee: I was the Security Commander...that was the government's property, not mine.

Board Member: You recorded the munitions you stored initially; when provided those munitions to the United States Special Forces, were they the same number and types as were originally recorded?

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Detainee: They were the same.

Board Member: In the Unclassified Summary 3.c.9, it says 'did not inform the United States Special Forces of the existence of the IEDs;' why is it called IEDs in this document?

Detainee: I never said IED or explosive devices...I don't know that.

Board Member: Do you have a home you can return to?

Detainee: Yes.

Board Member: What will you do to support yourself and your family?

Detainee: You know Afghans...we have property. I have a lot of property. I can live on it with no problem. I have a question.

Presiding Officer: Please hold; we have another board member [with questions].

Board Member: Item c.8, how did you notify these individuals? You said you notified the Governor, the Military Head of Office and the Intelligence Office in Jalalabad. How did you notify them?

Detainee: I answered that before and I will answer it again. We wrote an official letter to the government of Jalalabad and the copy is still there in our office. If you don't believe me, you can check and see the copies of the letters.

Board Member: What have you done to have those letters and documents sent here? Have you asked the AMO to try to get those letters here? Have you spoken to the Red Cross? Have you spoken with the folks that are sending this letter that you provided? What have you done to be able to present these documents that you say exist?

Detainee: Our office wrote a letter to the office of Jalalabad. If you don't believe me, the copies are still there.

Board Member: Whom have you told to try to get those letters here? What have you done to talk to the AMO or the International Red Cross or have you requested letters to be sent here? What have you done in terms of being able to get those documents here for your case?

Detainee: Yes, I didn't ask anyone to bring the documents. Now that you are asking me you can get the documents now.

Board Member: Did the AMO not tell you that you could get documents or have them find ways of bringing witnesses or bringing documents here?

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Detainee: The Assisting Military Officer didn't ask me otherwise I would (inaudible).

Board Member: Could you elaborate on why you think the folks that you say framed you wanted to ruin your reputation?

Detainee: As far as I worked for the Americans...my enemies framed me and brought me here. It is a frame...

Board Member: Why? Why would they?

Detainee: Right now, those people belong to al Qaida, Taliban, and Hezbi Islami Gulbuddin...they are still working for that government. They love to frame the people working with the Americans.

Board Member: Do you have any experience in working with IEDs at all?

Detainee: No.

Board Member: So, your military experience and your experience as a police officer has no experience [with IEDs] whatsoever?

Detainee: No, sir.

Board Member: So, you've never picked up one or seen one.

Detainee: No, Gob bless me...I haven't touched one.

Board Member: Have you been involved in any criminal activities influenced by government people or anything like that?

Detainee: No.

Board Member: Do you have any concerns if returned to the country of Afghanistan that someone would be interested in seeing your family or yourself hurt?

Detainee: Yes.

Board Member: You do? So, you still have enemies in Afghanistan?

Detainee: I'm afraid of another scheme like this. I am not scared of them...I'm not less than they are. I'm just scared of another scheme like this, which I can do nothing about.

Detainee: Can I ask any questions?

Presiding Officer: Yes, but I'm not sure that we will answer.

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Detainee: I just want to say to the Honorable Presiding Officer that I am not a threat to America. I can prove it by sending a fax to the Ministry of Defense. If they answer you that I am not a threat, would that be good enough? You can ask a lot other officials...I am not a threat.

Presiding Officer: Thank you.

Detainee: I'm still thinking that if I go back I will work with the Americans.

Presiding Officer: Thank you.

The Presiding Officer read the post-Administrative Review Board instructions to the Detainee and adjourned the open session of the Administrative Review Board.

*The Detainee interrupted with the following question:
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.

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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