

Summary of Administrative Review Board Proceedings for ISN 1043

The Administrative Review Board was called to order.

The Detainee entered the proceedings.

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

The Designated Military Officer (DMO) was sworn.

The Board Reporter, Translator, Assisting Military Officer (AMO) and Board Members were 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.

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

The Assisting Military Officer presented the Notification of the Decision of the Administrative Review Board 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 ARB interview was conducted on 27 July 2006. After reviewing the ARB's purpose and procedures, the Pashtu translated Unclassified Summary of Evidence was read to the detainee. 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 stated that he did not want to make any written comments to the Unclassified Summary of Evidence, but that he did want to attend the ARB and address his comments directly to the board. The detainee was attentive throughout the interview. Both the English and Pashtu translated Unclassified Summary of Evidence were offered to the detainee, who accepted the Pashtu version.

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.

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 present.

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: (3.a.1) The detainee claimed that he fought against the Russian-backed Afghanistan governments in the Kandahar, Afghanistan area beginning in the late 1970s.

Detainee: *(through translator)* Thank you very much for this opportunity that you have given me. I am representing myself in this situation. I pray to God to help you to do the right justice. I have fought in Afghanistan only against two communist supported governments of Russia and supported governments of Noor Mohammad and Hafizullah Amin but at the time Babrak came into power he was also supported by the Russians, I did not fight anymore. That is the answer.

Designated Military Officer: (3.a.2) The detainee said that by the time of Afghanistan President Najibullah, he had stopped fighting and began to work in commerce. When the Taliban later gained control, the detainee was asked to join the Taliban.

Detainee: *(through translator)* No sir, I did not fight until the Najibullah government. From the time when Babrak came into power I start fighting. The reason is because the United Nation and Pakistan were helping and they did not need our money or help anymore. So, I stopped fighting at the time of Babrak not Najibullah which was many years before Najib. Before the Russian invasion, at the time of the communists' government, since the United Nations and other countries of the world had not started to give help to the Afghan people they would make us feel compelled either to go out and fight or to give some money to help them. After that when the United Nation and the countries of the world give assistance there was no more need, I stopped fighting. Whoever had a gun in Afghanistan, he was compelled to go out and fight against the communists. I had a type of gun that was used for hunting. I said this is a hunting gun not a fighting gun. They said ok then you will sit at the rear. After the invasion of the Russians I stopped fighting. When the Russians ruled us again in Afghanistan then I stopped fighting because assistance started and they did not need anymore assistance.

Even against the Russians I have no experience and I have not fought the Russians. I was fighting before the Russians against the communists' government.

Designated Military Officer: (3.a.3) During ARB 1 proceedings, the detainee said that as the Taliban Minister of Commerce, he oversaw a fleet of only 70 to 80 vehicles, since most were looted.

Detainee: *(through translator)* At the time when Dawood was the president he signed a contract with the Russians that Afghanistan would pay 51% and Russians 49% and they started like a giant transportation. A giant transportation company, that transportation company had around 1,700 trucks, only for transportation purposes. Out of those 1,700 all of this is gone because of the wars. Only 70 or 80 are probably still there transporting from Iran to Afghanistan.

Designated Military Officer: (3.a.4) The detainee was identified as one of the three Taliban commanders responsible for the murder of an International Committee of the Red Cross worker on 27 March 2003.

Detainee: *(through translator)* I would like to talk about very precisely and very clearly and I hope that you will pay attention because I am accused of killing and killing is a very bad crime. I am going to defend myself. My God save me from doing such a bad thing because killing is really a grave crime. I have never killed any person in my life. At the time when this happened I was in prison and I heard it from the soldiers where they heard it from the radio. I did not know anything about it because I was in prison with the government of Afghanistan. He said when they took me before the governor of Kandahar which is Gul Agha Shirzai he asked me about this person who has killed and who killed him. I said whoever did it was very bad. I don't know who do it but whoever did, it was a very bad crime. Later, the governor of Kandahar put me in a truck with many other detainees and took us to a mountain, far away. I asked the soldiers what are we doing here and they said we had besieged someone here in this mountain and we want to capture him who has killed the person we mentioned here. His name is Mullah Satar. The name of the person which was in the mountain and he was accused that he has killed the man working for the Red Cross, his name is Mullah Satar. This is the information the soldier gave me because I was a detainee. After around three hours they looked on the mountain they did not capture anybody, they did not find that man. They brought us back to the city of Kandahar. He said there are two ways to going to the Orozgan capital, Shawali Kot one from the east and one from the west. I am at the east and the way the west those people would go to. There is a difference of 70 miles in between. I was 70 miles away from that place, the killing place. The person that was killed I was at least 70 to 80 miles away from that place and I swear by God that I had have never gone that way in my life. If I were to kill somebody from the United Nation or Red Cross, the road is very close to where I live and a lot of the Americans and like those people is going to and from. I could have chosen to kill somebody over there. Now I am accused where I have never been, I have never seen that way in my life. The way which where my house was,

ISN 1043
Enclosure (4)
Page 3 of 11

it was safe because there were many villages. That is why all the Americans and the rest of the people choose this way instead of going the other way which was west and it was all in the desert where there are no villages. If I were to kill somebody then I would kill them before my own home. Why go all the way out to that distance.

Presiding Officer: Why do you think they accused you of this crime?

Detainee: *(through translator)* I do not know why I was accused. I was 80 miles away from there. They came and captured me in my own home. Did I hear a helicopter or something? How could I kill one body or one person, someone 80 miles away and in two or three hours I'll be back at home, which after a few hours they captured me at home and took me to prison. He is speaking about ethnic problems and I belong to the tribe of Noor Mohammad Taraki. His tribe is called Taraki and Gul Agha Shirzai, the governor of Kandahar and one of his colleagues by the name of Khalid Pashtun which they are Barikzai pretty much against Tarakis. When he knew I was a Taraki then they probably accused me. The person who killed the man that was working with the Red Cross he was killed by one of the tribe men of the governor and Khalid Pashtun. Both of them are in the same tribe, Barikzai. They took me to one of their villages and all of those people did not believe it. They did not think I was involved in the killing because they knew me and I know how far away I am from the place where the man was killed. I assure you and I swear by God that I have never killed a person in my life and I will never do that and I hope that you believe my story.

Designated Military Officer: (3.a.5) An Afghan official stated that the detainee had been arrested for orchestrating the murder of the International Committee of the Red Cross worker on 27 March 2003.

Detainee: *(through translator)* This is true, I believe they should accuse me because with this circumstance there were three very important people involved which was the Minister of Public Works, Minister of Justice, minister means Secretary of Justice, Minister of Military or Defense. We call it military and here they call it defense. Those three people involved, because they had the power and the money and because they were from the same tribe. They needed to put the responsibility on somebody and that somebody was me, they choose me. As I said they gave the wrong information to the Americans. They released those people and then caught an innocent man. I was not living on the border of Pakistan I was out visiting in my own home. If I was a bad man how could I stay home all of the time? I should not have been home or I should have been very close to Pakistan border which I was not. I was at home all the time and they captured me at home because they wanted to release the others and they needed somebody to show him as a responsible person. They released those people and put their responsibility on me.

Board Member: I do have one question.

ISN 1043
Enclosure (4)
Page 4 of 11

Detainee: *(through translator)* I will never accept what the Afghan official said something about him, he was accused this is not true, 100 percent. Either this man, we did not mention his name, either this is the government or maybe Khalid Pashtun which is one of his chiefs, assistance. He said excuse me that before you asked me a question I started to speak so now if you have any questions it seems like you already answered the question.

Designated Military Officer: (3.b.1) Mullah Omar called a meeting in Kandahar. During this meeting, the detainee argued for a single tax option that would be fairer for businessmen. The detainee stated that Omar ended up using his suggestions.

Detainee: *(through translator)* Yes, this is true. Doesn't mean that I was very powerful or very grand with Mullah Omar because I said something that was reasonable that all of the goods coming to Afghanistan were coming through different customs. Once they paid in Iraq then they make them pay in Kandahar again. The business people and the traders where not happy with it. I told Mullah Omar why do you make them pay twice for the customs, pay for the custom duty, he accepted that. At the time I was the president of custom in Kandahar. My objection was reasonable, that was why he accepted that. Not because he had a lot of honor for me.

Designated Military Officer: (3.b.2) In 1999, Omar asked the detainee to be the Taliban Minister of Commerce.

Detainee: *(through translator)* At the time I was in Pakistan for three months when somebody told me they had appointed me as the Minister of Commerce. I did not accept it at first because I said it is too heavy on me and I did not have the knowledge to be responsible to take that job but they said it would be temporary. Take the job and we will go find somebody else. When I got the job on the temporary bases but they did not find another person so I was there between two and two and a half years as the Minister of Commerce.

Designated Military Officer: (3.b.3) The former Taliban Kabul Corps Commander, who had served as advisor to the former Taliban Defense Minister, was named military leader by Mullah Omar.

Detainee: *(through translator)* What time? What period was that? What year?

Designated Military Officer: I do not have that information.

Detainee: *(through translator)* This question was asked me in the previous ARB. At that time I said I do not know about it. If I was the Minister of Commerce how could I be appointed to another job? I do not know anything about it. I had not been at that job.

Board Member: It was in the 2003 time frame.

Detainee: *(through translator)* In 2003 there were no Taliban in Afghanistan.

ISN 1043
Enclosure (4)
Page 5 of 11

Presiding Officer: In other words this is not meeting common sense here.

Detainee: *(through translator)* After the Taliban, people escaped and I was sitting in my own home, I didn't do anything wrong. I hoped somebody should have asked was this man at home? Was he in Afghanistan the whole time? Was he at home? I did not do anything wrong against any person. If it is not acceptable to what I say, you can ask other people where he was living all these years, all this time. I did not have a telephone and I did not have any communication with these people. I spent all of my time at home; it is a village with no connection. I do not know about this because if you say it is 2003 there were no Taliban.

Designated Military Officer: (3.b.4) The detainee, who was the former Taliban Minister of Commerce, was appointed as one of the military leader's deputies.

Detainee: *(through translator)* It is the same question. The same answer.

Designated Military Officer: (3.c.1) Afghan Military Forces captured the detainee in April 2003 during an encounter between Afghan Military Forces and anti-Afghan government forces. The detainee was turned over to United States Forces on 24 May 2003.

Detainee: *(through translator)* I was not fighting at all. Some people had come to one of our schools and then we took them away from there. We fought against them. We do not allow you to use our village to fight here and then to destroy us all. I did not participate in the fight against U.S. soldiers but we did move those people who were still fighting and using our village. If I was going to fight then why did I remove or fight against Peer Mohammad. He is a man, the commandant that was fighting against American soldiers. If I was a combatant a number of people should have been with me. If I was a combatant and if I had a weapon with me by the time they captured me I should have at least shot somebody. I was afraid that anytime the military force would come, the people that were fighting against the Taliban. It made me afraid if I left my home otherwise I would never be captured. I was afraid because I thought they would fight here and maybe I would be accused or maybe I would be killed by these people so I left home that this is dangerous. At the time this looked dangerous to me.

Designated Military Officer: (3.c.2) The detainee stated that when he was detained by Afghan military forces, he provided them with his brother's name instead of his real name. The detainee stated that after his arrest, the soldiers took him to see the local mayor.

Detainee: *(through translator)* This is true because I was afraid. When I was first captured the soldier asked me my name and I did not introduce myself. I gave them the wrong name. They took me to the mayor and to the mayor of course I introduced myself. I said my name is this and this. The mayor did not know me because I was not a famous person there. I introduced myself and said this is my name.

ISN 1043
Enclosure (4)
Page 6 of 11

Designated Military Officer: (3.c.3) The detainee stated that his uncle gave him a Kalashnikov rifle and assisted him to avoid being captured. The detainee stated that four or five military members caught the detainee and insisted that because he had a weapon he had to meet with the commander.

Detainee: *(through translator)* That Kalashnikov was not given by my uncle. It was my own Kalashnikov. Yes, I did have it the Kalashnikov gun with me. Since I was going and it was a dark night and I was afraid of some of the animals which are out there, some wild animals. I had the Kalashnikov to protect myself. There were no soldiers the night that I was going that way. It happened incidentally that at that time I was crossing that desert I faced the soldiers they were going somewhere. If I would fight, if I was somebody to fight three or four soldiers then I should have shot one of them but I didn't do it. I had the gun with me to protect myself against the animals.

Designated Military Officer: (4.a) The detainee stated that he does not want to go back to being the Minister of Commerce in Kandahar, Afghanistan. The detainee said he wanted to go back to what he was doing before he was appointed to that position, which was private finance, such as trading of oil or fruit.

Detainee: *(through translator)* Reason why I worked with the Taliban, Taliban had no experience at work but I was not an experienced person either. I did have a little bit of knowledge and because I was doing some businesses and I had learned a little bit about it. Now there are a lot of learned people from all over the world have gone to work for the government they don't need me. I am not really; I do not have that knowledge anymore. I am not qualified to work with the government. That if I go back I will work on my own. The business before I was captured. Now I have lost everything and now I won't get much money to do the business. I will probably sell a little bit of food.

Designated Military Officer: (4.b) During ARB I proceedings, when questioned about the International Committee Red Cross worker's murder, the detainee stated he was in the custody of the governor of Kandahar, 60 or 70 miles away. The detainee stated the governor of Kandahar, Afghanistan told him Mullah Satar killed the worker and was hiding in the mountains.

Detainee: *(through translator)* The governor, when asked me he told me that somebody which was working with the Red Cross was killed. What do you think is this good or bad? I told him that this was very bad. The soldiers told me that a man has been killed by Mullah Satar and he had escaped to the mountains. The governor did not tell me that. The soldiers told me the name of the person that killed the person was Mullah Satar.

Designated Military Officer: (4.c) During ARB 1 proceedings, when questioned why the detainee was arrested and sent to Cuba and the other officials weren't, the detainee stated that he was not from their tribe. The detainee stated that Defense Minister, Public Works

ISN 1043
Enclosure (4)
Page 7 of 11

Minister and former governor of Kandahar, Afghanistan were arrested, among others, but were released because of their tribal affiliations.

Detainee: (through translator) Like I said before, the Ministers of Public Works and Minister of Justice they were captured and it was announced on the radio that I heard. That these people, not the governor was not among them, the governor of Kandahar. It was the Minister of Defense, Minister of Public Works, and the Minister of Justice. It was announced on the radio that these people yielded to the government. I can not say if any other person was captured because I do not know. If they are in Bagram or somewhere in the prison, because I do not have any information about them. The people that were released because of their ethnic relations. If it was not the ethnic relations then they were much more important people than I am. They imprisoned me and released them because I did not belong to their tribe.

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: (through translator) If any of the members are going to ask me any questions I will answer, otherwise I have something to say.

Presiding Officer: Abdul Razak, you may begin your statement at this time.

Detainee: (through translator) In the first session I was told I was a combatant against the United States forces. Now I am accused that I'm a source of danger. If I had been dangerous then I could not have stayed in my home, it is a very safe place it's not close to the border of Pakistan. The dangerous people have all left Afghanistan. They have gone either to Iran or Pakistan. One and a half year I was at home, I was in a safe place. I am not against the United States; of course I would never be against it. I am not against the government of Afghanistan and I would not be. I have small baby children. I have a wife all I want is to go sit by my wife and children and work for them. I would take care of my children's education and their other needs. By nature I am not a fighting man, this is not my nature. I have never fought and I will never fight. I request you, with great respect, do not call me a dangerous man, I don't like this. In case you still think of me as a dangerous man send me to Afghanistan and keep me there under your supervision and let me take care of my children and guard me there. If you send me to Afghanistan a lot of people would guarantee me that I am a good man not a bad man to fight or make any

ISN 1043
Enclosure (4)
Page 8 of 11

problems. I live in the city of Kandahar right now. I am inside the city so I can be easily controlled or watched. My own tribe is not around me there in Kandahar. If they find that I am a dangerous man then contact those kinds of people. There will be people against the government, it doesn't concern me, and I am not one of them. I am very happy with the present situation at home. With the assistance that the Afghan government is getting this country will progress and prosper and I pray for that. I am sorry that I talk much and wasted your time.

Presiding Officer: It is not a waste. Abdul Razak, does that conclude your statement?

Detainee: *(through translator)* Yes.

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: When you were speaking about being in the mountains with the soldiers when they were looking for the man who had killed the Red Cross member. You said they took you with them. Why did they take you with them?

Detainee: *(through translator)* That is a very good question. I was not alone. There were many other detainees also with us, a number of them. The reason, probably they didn't want us to escape, so when they were busy they were keeping us that way. It was not me alone, there was about six or seven of us. We were under the supervision of one of the commandants and the commandant was supposed to take us to Kandahar to put us in the prison. It was before we go to Kandahar that happened. He could not make us sit somewhere why they go. He had to go himself so he kept all of us. It took two days of searching for Mullah Satar in the mountains and they were keeping guard on us also.

Board Member: At one point you said you were captured at home? You were not actually at home when you were captured, correct?

Detainee: *(through translator)* No, I was not at home. If I was at home I wouldn't have been captured. That once he said I remember that unfortunately I was not at home. Otherwise they would not have captured me. At the time we did not have any information that there were soldiers fighting and when I had my Kalashnikov with me I was crossing the desert and incidentally it happened that we came across each other and they captured me. I told those people when I was captured that this was my home. You can search it but they said no we do not search your home.

Board Member: He had his Kalashnikov so that is why they captured him? Is that basically what he is saying?

Detainee: *(through translator)* Probably, I don't know, maybe it was the reason because I had a Kalashnikov. Most people have Kalashnikov in Afghanistan. Probably, because I don't know what went wrong. I had the gun with me maybe because of that. I had two Kalashnikovs with me. One they took from me and one they left with me. According to Mr. Karzi, the president he signed the decree that to the high level of officials of the Taliban that you leave one car and two Kalashnikovs. The governor, I mean the sub-governor of where he is living. Later on he took the gun from me and also the car from me and left one Kalashnikov. By the time the sub-governor took one Kalashnikov and the car from me and left one with me. He originally gave me that which is why he left me the Kalashnikov. He gave me a document. It was actually only against the thieves and self protection that is why they leave us one Kalashnikov.

Presiding Officer: If you were not at home when you were captured, where were you going? What were you doing?

Detainee: *(through translator)* My niece was living in another village and somebody advised me that it would be better for me to go to my niece's home because the Taliban is coming here and I had worked for the Taliban and maybe be captured because of previous cooperation with Taliban. Then I was going to my niece home. I went to my niece home and somebody took me away from there. Then in the middle of the way he got confused and he said let us go back there because where the people are fighting it is far away from there. He said this will probably not affect us so we came back there. Then later on I was captured.

Board Member: If you are released from our custody where would you go? Where would you live?

Detainee: *(through translator)* I would go directly to my home.

Board Member: And that is where?

Detainee: *(through translator)* City of Kandahar.

Board Member: That is where his family is?

Detainee: *(through translator)* Yes, not very far from Yemeni. Yes. I receive letters from them. They are still in the city of Kandahar. My brother had written to me that there is no rain where they are living in there village, no water, no rain. So, we moved to Kandahar city. Now they are in Kandahar. My brother and my nephew both of them are mechanics, they are working there in the city. They take care of my family also.

Board Member: Because you used to work for the Taliban government. Do you feel that you would have any problems returning to live with anyone?

UNCLASSIFIED//~~FOUO~~

Detainee: *(through translator)* Unless I get a certificate from the Americans from here, probably I would have some trouble over there because of my previous works for the Taliban. But if you give me a certificate here that would take care of that.

Board Member: Ok that is all I have. Thank you, I appreciate you coming.

Detainee: *(through translator)* Thank you very much. Thank you for giving me enough time. Thank you for giving me time to present myself. I hope a good time for all of 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 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.



ISN 1043
Enclosure (4)
Page 11 of 11

UNCLASSIFIED//~~FOUO~~

00002848

2848