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ADMINISTRATIVE REVIEW BOARD HEARING FOR ISN 112 (IN ABSENTIA)

Presiding Officer: This hearing shall come to order. Please be seated.

Designated Military Officer: This Administrative Review Board is being commenced at 1036 hours on 25 May 2006 onboard U.S. Naval Base Guantanamo Bay, Cuba. The following personnel are present:



_____ is the member of the Administrative Review Board experienced in the field of intelligence.

Presiding Officer: This Administrative Review Board is convened by order of the Director, Office for the Administrative Review of the Detention of Enemy Combatants under the provisions of his order dated 27 April 2006. These proceedings are to determine whether Abd Al Aziz Sad Muhammad Awshan Al Khalidi, also known by Internment Serial Number (ISN) 112, should continue to be detained, transferred, or released from custody of the United States.

OATH SESSION

Presiding Officer: The Designated Military Officer will now be sworn. All rise. Do you swear or affirm that you will faithfully perform your duties of Designated Military Officer assigned in this Administrative Review Board, now and hearin, so help you God?

Designated Military Officer: I do.

Presiding Officer: The Board Reporter, Assisting Military Officer, and Members of this Administrative Review Board shall now be sworn. The Designated Military Officer will administer the oath.

Designated Military Officer: Do you swear or affirm that you will faithfully perform your duties in support of this Administrative Review Board, now and hearin, so help you God?

Board Reporter, Assisting Military Officer, and Board Members: I do.

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Presiding Officer: Please be seated. Assisting Military Officer, please provide the Administrative Review Board with the Notification of the Decision of an Administrative Review Board Form.

Assisting Military Officer: I am handing to the Administrative Review Board the Notification of the Decision of an Administrative Review Board Form, previously marked as Exhibit EC-A.

Presiding Officer: The document is received and entered into the record. Assisting Military Officer, please provide the Administrative Review Board with the Enemy Combatant Election Form.

Assisting Military Officer: I am handing to the Administrative Review Board the Enemy Combatant Election Form, previously marked as Exhibit EC-B.

Presiding Officer: The document is received and entered in to the record. I note from the Enemy Combatant Election Form that the detainee chose not to be present at this hearing. Assisting Military Officer, did you meet with the detainee and inform him of his rights in regards to these proceedings?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Did the detainee appear to understand the process?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Was the Unclassified Summary of information read to the detainee?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Was a translator used during your interview?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Did you confirm that the translator spoke the same language as the detainee?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Designated Military Officer, please provide the Administrative Review Board the unclassified summary of evidence.

Designated Military Officer: I'm handing the Administrative Review Board the unclassified summary of primary factors that favor this detainee's continued detention

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and those primary factors favoring his release or transfer. This document has previously been marked as Exhibit DMO-1. A translated copy of this exhibit was provided to the Assisting Military Officer in advanced of this hearing for presentation to the detainee. In addition, I'm handing to the Administrative Review Board the following unclassified exhibits, marked as Exhibit DMO-2 through DMO-3. Copies of these exhibits have previously been provided to the Assisting Military Officer.

Presiding Officer: Exhibits DMO-1 through DMO-3 are received and entered into the record. Designated Military Officer, please summarize this information.

Designated Military Officer:

The following primary factors favor continued detention:

Commitment

1. The detainee stated that he saw a copy of a fatwa issued by a sheikh from the al Kasseeb mosque for people to defend the Muslims and Islamic nations/lands against the Northern Alliance. The detainee believed in this fatwa and felt it was his religious duty to fight against people who attacked Muslims.
2. The detainee, one exam away from earning his degree, left school early to travel to Afghanistan, after receiving the fatwa.
3. The sheikh issued a fatwa calling for jihad in Afghanistan. He condoned the 11 September 2001 attacks against the United States.
4. The detainee financed his entire trip to Afghanistan. He departed Saudi Arabia with approximately 5000 to 6000 Saudi Riyals, which is equivalent to approximately 1,333 to 1,600 United States Dollars.
5. The detainee traveled from Saudi Arabia to Konduz, Afghanistan via Damascus, Syria; Tehran, Iran; Mashhad, Iran; Taybad, Iran; Heart, Afghanistan; and Kabul, Afghanistan. This is a heavily used al Qaida infiltration route.
6. While the detainee was staying at a guesthouse in Konduz, Afghanistan, he was shown how to operate a Kalashnikov rifle.
7. The detainee arranged his own travel from Kabul to Knoduz, Afghanistan. The detainee took a taxi with two other men who knew where to go because they had been to the front line before.

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8. The detainee stated that he was in a bunker and would hear mortar shells and artillery. The detainee was instructed not to shoot his Kalashnikov rifle unless he was in immediate danger.
9. The detainee was in the northern part of Afghanistan on the line between the Taliban and the Northern Alliance.
10. The detainee was captured and ordered to surrender his weapon by the Northern Alliance forces near Mazar-e-Sharif and was transported to prison.

Connections/Association

1. The detainee was recruited by a sheikh.
2. This sheikh helped raise money for Usama bin Laden until the sheikh's death in Saudi Arabia in 2001.
3. The detainee's brother is a deceased al Qaida operative who died in July 2004 during a foreign security forces raid. He was listed as number fifteen on the Saudi most wanted terrorist list.
4. The detainee's younger brother was also fighting in Afghanistan.
5. The detainee was given a Kalashnikov rifle with ammunition and was given a tour of the front line area by the front line commander.
6. The detainee's name was among 324 names listed on a document recovered from a safe house raid associated with a suspected al Qaida in Karachi, Pakistan.

The following primary factors favor release or transfer:

- a. The detainee claimed he only went to Afghanistan to find his brother and not because of a fatwa. The detainee claimed that he lied about the fatwa due to pressure he felt in prison.
- b. The detainee stated he never heard of a fatwa issued against the United States or Americans.
- c. The detainee stated he was still in Saudi Arabia when the attack on the World Trade Center occurred on 11 September 2001. The detainee believed the attack was wrong because the Koran stated it was wrong to kill innocent people.

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- d. The detainee stated that he never attended any training camp and that the only training he did receive was at this guesthouse.
- e. The detainee claimed that he has never fired a weapon.
- f. The detainee stated that upon his release he would return home to Saudi Arabia. He said he did not fully understand the situation in Afghanistan prior to his arrival in November 2001, and he would not return to Afghanistan.
- g. The detainee was effective in convincing his brother, another detainee, to drink Ensure, thus breaking his fast.
- h. The detainee's brother has been taken off total voluntary fast status.

This concludes the Unclassified Summary, ma'am.

Presiding Officer: Do either of the members desire more time to review the unclassified summary?

Board Members: No ma'am.

Presiding Officer: Does the Designated Military Officer have any additional unclassified information?

Designated Military Officer: Madam Presiding Officer, I have no further unclassified information for the Administrative Review Board but request a closed session at an appropriate time to present classified information relevant to the disposition of this detainee.

Presiding Officer: Designated Military Officer, your request for a closed session is granted and will be taken in due course. Assisting Military Officer, did the detainee request that you present any information to this Administrative Review Board, including written statements or correspondence submitted on his behalf?

Assisting Military Officer: No, ma'am.

Presiding Officer: Assisting Military Officer, please read the AMO Comments and any additional comments on the Enemy Combatant Election Form.

Assisting Military Officer: The detainee's initial ARB interview was conducted on 22 May 2006. During this initial meeting, the ARB's purpose and procedures were reviewed and the Arabic translated Unclassified Summary of Evidence was read to the detainee. When asked if he wanted to attend the ARB, present a written or oral

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statement, or have the AMO speak on his behalf, the detainee stated he was hard of hearing and wished to take copies of both the English and Arabic translated Unclassified Summary of Evidence with him to review before making a decision. He asked for four pages of note paper to write comments to each statement in the Unclassified Summary.

AMO and Detainee Comments During Follow-up Meeting:

Assisting Military Officer: Do you plan on attending the future ARB?

Detainee: May I have your name?

Assisting Military Officer: I am the Assisting Military Officer assigned to help you prepare for your future ARB.

Detainee: What happened to the information I gave to the other AMO? That information is still good. Why can't we use that?

Assisting Military Officer: Is the information in the previous Unclassified Summary the same as the one just read to you? Do you want to submit the previous information?

Detainee: I need to get prepared. When is the ARB? I have letters from my attorney and my family but they won't let me have them. I am hard of hearing and didn't hear all you read.

Assisting Military Officer: The ARB will happen soon. This is an Administrative Board and not a legal meeting. We can proceed with the ARB without letters from your attorney. The Unclassified Summary will be read again to you and you can choose to respond to each statement if you wish.

Detainee: Stop reading. I don't want you to read each statement in the Unclassified Summary of Evidence and then have me comment on it. The guards would not let me have the paper you gave me and I needed time to prepare my statements. The letters from my attorney are not legal letters but ones that speak about my degrees and character. You don't give me much time to get my documents together. I am not prepared so do it your way.

Assisting Military Officer: During the last meeting with the AMO, the information discussed with you was that you will continue to be kept at Guantanamo Bay for at least one more year, that you will have another meeting about one year after the date of the last meeting, that the purpose of the meeting will be to decide if there is any reason to keep you here, that we recommend that you write to your family and friends and ask them to send you written statements that will help show the board you are not dangerous to Americans and their allies. Although you do not have the letters with you, I can write down your comments and review them with you before we go to the ARB. Also, the

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ARB's Presiding Officer will ask you if you have any comments that you would like to make.

Detainee: This process you described doesn't really help me. You say you are the military officer here to assist me but you just want to do this your way. I am finished talking.

Assisting Military Officer Additional Comments:

The detainee was very talkative during the initial interview. He seemed agitated that he didn't have access to his documents he wanted and that he couldn't influence time and date of the future ARB. He became progressively silent when told that the ARB would take place whether or not he had the documents.

Presiding Officer: Thank you. Assisting Military Officer, I do have a couple of questions for you regarding the detainee's comments. First of all when he said what happened to the information I gave to the other AMO, what other AMO was he referring to?

Assisting Military Officer: The previous AMO that read the Notification and prepared him for the interviews so this is ARB [Cycle] 2 so it would be the ARB [Cycle] 1 AMO.

Presiding Officer: So it would have been the ARB 1 AMO. Thank you. What additional documents did he want to have access to for presentation to the board?

Assisting Military Officer: He indicated to me that he had documents from his attorney that weren't legal in nature, they were just descriptions of his character, as he put it, in addition to documentation of his education. He also said he had letters from family and friends that will support that he is not an enemy of the Americans and their allies.

Presiding Officer: Was the detainee afforded the opportunity to review these documents and if so, when?

Assisting Military Officer: The initial meeting, he was given the AMO documentation, the Unclassified Summary of Evidence and both the translations in addition to some notepaper to write on. About an hour after the guards and the detainee left, I got a call from the guards that explained to me that due to the detainee's discipline problems, he was only allotted a specific amount of time, 30-60 minutes, to review any information. I did explain to the guard that this detainee should have unlimited access or as much time that was allotted to him. The guard said he would allow him to have access to that material that I handed to him for the specified amount of time.

Presiding Officer: So that's access to the material that you handed him. Does he have access to these other letters from his attorney and family? If so when?

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Assisting Military Officer: The indication I got from the detainee is that he was not allowed to have the information. I did not ask the guards does he have letters in his possession. It was the detainee that told me that he had letters that no one would give to him.

Presiding Officer: Did the detainee state that he wanted to submit these documents to the Administrative Review Board?

Assisting Military Officer: The detainee did indicate that he would like to have access to the letters so that he could show them to me.

Presiding Officer: Very well. Do the other members of the Administrative Review Board have questions for either the Designated Military Officer or Assisting Military Officer regarding either the material presented or their comments concerning it?

Board Members: No ma'am.

Presiding Officer: Very well. This board does need to receive some answers to these questions concerning these additional documents from the attorney and family. The questions being: Do these documents exist, can the detainee be afforded the opportunity to examine them, and does the detainee actually want to follow through with his stated request to submit these documents to the Administrative Review Board? Therefore, this Administrative Review Board will go into recess pending answering these questions or other such questions regarding these documents.

Designated Military Officer: The time is 1052 hours. The date is 25 May 2006.

RETURN FROM RECESS:

Presiding Officer: The Administrative Review Board for ISN#112 is now reconvened. Designated Military Officer please note the current time and date.

Designated Military Officer: The time is 1007 hours. The date is 26 May 2006.

Presiding Officer: At 1052 hours on 25 May 2006, this Administrative Review Board recessed so that it may determine answers to the following questions. The board wished to clarify whether the detainee had the opportunity to review the Unclassified Summary of Evidence and formulate a response, were there additional letters and documents from the detainee's attorney and family, if so, was the detainee afforded the opportunity to review them, and, if so, does he wish to submit them to the AMO for submission to the board? Assisting Military Officer, did the detainee have the opportunity to review the Unclassified Summary of Evidence and formulate a response?

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Assisting Military Officer: Yes, ma'am.

Presiding Officer: Are there additional letters and documents from the detainee's attorney and family?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Was he afforded the opportunity to review these letters?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Does the detainee wish to submit them to the AMO for submission to the Board?

Assisting Military Officer: The AMO will conduct another follow up interview to determine the detainee's intention.

Presiding Officer: Very well. Designated Military Officer, do you desire to comment on this information?

Designated Military Officer: No, ma'am.

Presiding Officer: Do members of the Administrative Review Board have any questions for either the Designated Military Officer or the Assisting Military Officer, regarding either the material presented or their comments concerning it?

Board Members: No, ma'am.

Presiding Officer: Very well. This Administrative Review Board is in recess pending response to the information of whether the detainee wishes to submit any letters to the AMO for inclusion with the Board.

Designated Military Officer: The time is 1009 hours. The date is 26 May 2006.

Presiding Officer: The Administrative Review Board for Abd Al Aziz Sad Muhammad Awshan Al Khalidi also identified by Internment Serial Number (ISN) 112 is now reconvened. Designated Military Officer please note the current time and the date.

RETURN FROM RECESS:

Designated Military Officer: The time is 0848 hours. The date is 05 June 2006.

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Presiding Officer: At 1009 hours on 26 May 2006, this Administrative Review Board recessed so the Assisting Military Officer (AMO) could ensure the detainee had access to his documents and decide whether to submit any documents to the board. In the interim, due to personnel transfers, the preceding [REDACTED]

[REDACTED] The Board Reporter and the AMO shall now be sworn. All rise.

Designated Military Officer: Do you swear or affirm that you will faithfully perform your duties in support of this Administrative Review Board now and herein so help you God?

Assisting Military Officer: I do.

Board Reporter: I do.

Presiding Officer: Please be seated. All other members have previously been sworn. The Enemy Combatant Election Form previously identified as Exhibit EC-B has been redesignated as Exhibit EC-B-1. Assisting Military Officer please provide the Administrative Review Board with the follow-up Enemy Combatant Election Form.

Assisting Military Officer: I am handing the Administrative Review Board the follow-up Enemy Combatant Election Form marked as Exhibit EC-B-2.

Presiding Officer: The document is received and entered into the record. I note from the follow-up Enemy Combatant Election Form that the detainee chose not to be present at this hearing. Assisting Military Officer did you meet with the detainee and inform him of his rights in regards to these proceedings?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Did the detainee appear to understand the process?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Was the Unclassified Summary of the information read to the detainee?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Was a translator used during your interview?

Assisting Military Officer: Yes, ma'am.

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Presiding Officer: Did you confirm that the translator spoke the same language as the detainee?

Assisting Military Officer: Yes, ma'am.

Presiding Officer: Assisting Military Officer please read the AMO comments and any additional comments from the follow-up Enemy Combatant Election Form.

Assisting Military Officer: Yes, ma'am.

Assisting Military Officer Comments during follow-up interview:

Assisting Military Officer: A follow-up interview with the detainee was conducted to clarify statements contained in EC-B1. The detainee's follow-up ARB interview was conducted on 01 June 2006. After reviewing the ARB's purpose and procedures, the Arabic 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 he did not wish to attend, nor have the AMO present any information on his behalf. The detainee was very cooperative, attentive, and cordial throughout the interview. A copy of both the English and Arabic translated Unclassified Summary of Evidence was provided to the detainee upon his request. The documents were placed in the detainee's unlocked, plastic document container at his request.

Assisting Military Officer Additional Comments:

Assisting Military Officer: The detainee appeared at his interview wearing a tan uniform and seemed surprised the AMO had possession of the detainee's document container. The AMO explained to the detainee the need to reconduct the interview in its entirety, as if it were the first time, to eliminate all unanswered questions and possible confusion. The detainee was encouraged that if he could not hear or understand the information being presented, to make the AMO aware of it and the situation would be corrected. The Unclassified Summary of Evidence in its entirety was read to the detainee.

The detainee was asked if he completely heard what was being presented. The detainee stated he could hear everything with no trouble. When questioning the detainee why he did not wish to attend or participate in the ARB during the initial interview, the detainee stated that he needed access to his unlocked, plastic document container in order to adequately prepare or make a decision on attending the ARB.

The AMO presented the unlocked, plastic document container for the detainee, as requested by the detainee. The AMO informed the detainee he had full access with no time limit to view and retrieve those documents the detainee deemed necessary in preparation to make a decision on whether or not to attend the ARB. The detainee would

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be authorized to retrieve, and keep in the detainee's personal possession, all documents relevant to the detainee's preparation for the ARB. The detainee opened the unlocked, plastic document container, briefly looked inside for two or three seconds with disinterest, and then closed the box.

The AMO requested the detainee provide clarification to unclear issues posed during the first interview. At the first interview, the AMO was led to believe from the detainee that the detainee had letters from his attorney (not legal documents) and family members addressing the detainee's character reference, which the detainee could not access and did not have time to prepare for his ARB. The detainee stated this was true.

The AMO restated to the detainee that he had complete access to the documents and could choose those documents the detainee felt had relevance to the ARB. The detainee could either present the documents or have the AMO present them on his behalf at the ARB.

During the entire interview the detainee never addressed the statements presented in the Unclassified Summary of Evidence. The detainee was given full, unrestricted and complete access to the detainee's unlocked, plastic document container mentioned in the previous EC-B1. It was verified by the AMO that the detainee had permission from proper authorities for the detainee to keep the original documents he required in his possession for presentation to the ARB.

The detainee appeared confused and surprised when the unlocked, plastic document container was presented to him and the detainee would be allowed to retrieve those documents relevant to the ARB. The detainee displayed little to no interest in the contents of the unlocked, plastic document container. The detainee was asked several times to retrieve those documents from the detainee's attorney and family needed to support statements for the ARB. The detainee made no effort to retrieve the documents he allegedly did not have access to, in order to make a decision about attending the ARB.

After further pursuing the detainee's nonparticipation and refusal to retrieve documents from his plastic, unlocked document container for presentation to the ARB, the AMO asked the detainee for his decision about attending the ARB. The detainee stated it would not make him look good to others if he retrieved his documents, took the documents back to his cell and then decided not to attend his ARB. The detainee stated, I want to do things my way and not according to your procedures or rules.

The AMO reiterated to the detainee, that the detainee had the opportunity to fully access his documents, no time limit or restrictions for review and could select all those documents pertaining to the detainee's case; however the detainee remained uninterested to do so. In fact the detainee did not want to submit or have the AMO submit documents to the ARB. The AMO restated to the detainee for clarification, that the detainee did not want to submit any documents or attend the ARB. The detainee stated that was correct

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and he did not want to attend nor submit any documents or attend the ARB. The detainee stated that was correct and no he did not want to attend nor submit any documents or have the AMO submit anything on his behalf. The detainee stated he might attend next year. That's all I have ma'am.

Presiding Officer: Do members of the Administrative Review Board have any questions for either the Designated Military Officer or the Assisting Military Officer regarding either material presented or there comments concerning it?

Board Members: No, ma'am.

Presiding Officer: All unclassified information having been provided to the Administrative Review Board, this concludes this unclassified Administrative Review Board session. Abd Al Aziz Sad Muhammad Awshan Al Khalidi shall be notified the status of his continued detention upon completion of the review of these proceedings by the Designated Civilian Official in Washington, D.C., if the Designated Civilian Official determines that he should no longer be detained by the United States he will be released or transferred to his home country as soon as arrangements can be made. If the Designated Civilian Official determines that he should continue to be detained he may eligible for another Administrative Review Board in one year.

The open session of this Administrative Review Board hearing is adjourned.

Designated Military Officer: The time is 0858 hours. The date is 05 June 2006.

AUTHENTICATION

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



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