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Summary of Administrative Review Board Proceedings for ISN 579

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 declined taking the (Muslim) oath stating that he will start his statement in the name of the most kind and gracious God.

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 ARB interview was conducted on 20 June 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 said he wanted to think about it. The detainee was attentive throughout the interviews. The detainee was offered both an English and Pashtu translated Unclassified Summary of Evidence, and accepted the Pashtu version.

On 21 June 2006, a follow-up interview was conducted and the detainee stated he would attend the ARB and wished to respond orally to each statement of information in the Unclassified Summary of Evidence. The detainee requested time to make written notes to remind him of issues he wanted to present to the ARB, which was granted. At the end of the interview the detainee was allowed to retain his notes for use at the ARB. The detainee appeared at the interview wearing an orange uniform.

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The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, the FBI Redaction Memorandum, DMO-2, the CITF Redaction placeholder, DMO-3, and the Terrorist Organization Reference Guide, DMO-4, 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.

Presiding Officer: Khirullah, you have chosen to respond to the information in the Unclassified Summary, is this correct?

Detainee (through translator): Yes.

Presiding Officer: The DMO will read each item from the Unclassified Summary. He will then provide you a chance to respond. Board members may ask you questions based on your response.

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) The following factors favor continued detention: (3.a) Commitment (3.a.1) In 1994, when the Taliban started their rise to power, the detainee traveled from Pakistan to Afghanistan and lived in Spin Boldak, Afghanistan.

Detainee (through translator): In the name of the most gracious and compassionate God, it's no doubt that I was a member of the Taliban, and I did whatever the Taliban was supposed to. My purpose was not to fight, but to bring security to the country. Because of that, I cooperated with these people. The condition was so bad that people would be happy to have a Russian government.

Presiding Officer: I thought I heard you say that the Taliban was happy with the Russians being there. They didn't care that they were the government in charge?

Detainee (through translator): The condition in Afghanistan was so bad that people wished to have had the Russians instead of these people [the Taliban] as a government.

Designated Military Officer: (3.a.2) The detainee acted as the Pashtu spokesman for the Taliban from 1994 to 1999.

Detainee (through translator): I joined the Taliban for no other purpose but to bring stability and security to the country.

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Designated Military Officer: (3.a.3) The Taliban chose the detainee to become their spokesperson for BBC and Voice of America (VOA). As Taliban spokesperson the detainee traveled to Chaman, Pakistan; Kandahar, Afghanistan; Charasia, Afghanistan; county of Kabul, Afghanistan; and Mazar-e-Sharif, Afghanistan.

Detainee (through translator): This is true. I was the Pashtu spokesman and my job was to give Pashtu news regarding the war. I was not the Taliban spokesman.

Designated Military Officer: (3.a.4) While serving as the Taliban spokesperson in Spin Boldak, Afghanistan, the detainee also served as county supervisor in that area.

Detainee (through translator): Because there was no telephone in the whole Afghanistan, I had to cross the borderline to go to Chaman to interview or be interviewed for news about Chaman. When I was living in Spin Boldak, I was cooperating and helping the local governor, and yes I was helping him. There is not a word to describe the local government agent because we cannot say mayor or sheriff.

Presiding Officer: The top official for that town?

Detainee (through translator): Yes, sir. The top person in charge of the county.

Designated Military Officer: (3.a.5) The detainee is a former Taliban Interior Minister and was the commander of Taliban forces that took Mazar-e-Sharif in 1996.

Detainee (through translator): I have a question. I was the Minister of Interior, I was the commander of the Army, I was the spokesman for the Taliban, and later it will state that I was shipping weapons as well. If you look at the dates, I had four jobs at the same time. So, which one is it? The jobs are very different. Shipping weapons is done by low ranking people and being Minister of Interior is a very high-ranking position. They don't add up.

Presiding Officer: Agreed.

Detainee (through translator): When the Taliban took over Kabul, they asked me to stay in the Minister of Interior building as the supervisor of that ministry until we appoint ministers and other high ranking people. When they officially announce the real ministers, if you find my name there that will be all right. Yes, I went to Mazar-e-Sharif, and I was cooperating with them. I was doing my share, but I never shipped weapons. I was a spokesman. There is no doubt that I had helped them and cooperated with them. If not too much trouble, I would like to go to the bathroom.

Presiding Officer: Did you not use the bathroom before you came in here?

Detainee (through translator): Yes. I have problems.

Presiding Officer: We will take a brief recess while the detainee uses the facilities.

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Presiding Officer: *The Administrative Review Board for Khirullah Khairkhwa is now reconvened.*

Detainee (through translator): I was not a military person. I was not part of any activities regarding the military.

Presiding Officer: So, you were not a commander of the Taliban Forces?

Detainee (through translator): No.

Designated Military Officer: (3.a.6) The detainee worked as a deputy sheriff in Spin Buldak, Afghanistan and knew of shipments of Taliban-seized weapons from Mazar-e-Sharif to Kandahar, Afghanistan.

Detainee (through translator): Like I mentioned earlier, this is one of the jobs I had at the same time. Nobody can do that.

Presiding Officer: So you were not a deputy official in Spin Buldak?

Detainee (through translator): As I mentioned earlier, I was cooperating with them, but I was not a deputy.

Presiding Officer: Did you know of shipments of weapons that were seized by the Taliban?

Detainee (through translator): Yes. It was Kalashnikov.

Presiding Officer: So, you were familiar with weapons being seized?

Detainee (through translator): From the local people who mostly had Kalashnikov rifles, that's why I am talking about Kalashnikov rifles. I am not a commander to know about other weapons. My cooperation with them [Taliban] was to explain to the public that these weapons were to be collected and that security would be in danger if the public had weapons or rifles.

Board Member: What happened to those weapons that were collected?

Detainee (through translator): They were brought to Kandahar. In the northern side, even women had weapons. [General] Dostum hired people to deliver and distribute weapons to those women.

Designated Military Officer: (3.a.7) In 1998, the detainee shipped weapons captured by the Taliban to Kandahar, Afghanistan.

Detainee (through translator): Yes. I was cooperating with them and telling the public to give up their weapons, but shipping them was not my job.

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Designated Military Officer: (3.a.8) The detainee was appointed by the Taliban to be Governor of Herat Province to improve relations between Iran and the Taliban government.

Detainee (through translator): I was appointed in Herat. It was not my job to fix the relationship with Iran. As a governor, my job was to have a good relationship with everybody or any country. There were good and bad times. The good time was when Iran opened a consular office in Herat. The bad time was when the consular office burned out and the personnel went back to Iran.

Board Member: What problems specifically did you need to work on with Iran to have a better relationship with Iran?

Detainee (through translator): The most important thing is that the merchandise coming from Dubai to Islam Qala had stopped. That's why I was working with them to make the business of public merchandise go through. All the merchandise in Afghanistan used to come through this way. Iran was the only place Heratis could go to receive medicine or treatment because they could not go to Pakistan. Also, there were work opportunities in Iran. You are aware that, in Iran, there are thousands of refugees and, with a better relationship between Iran and Heart, it became very easy for them to go back and forth.

Designated Military Officer: (3.a.9) The detainee was trusted by the Taliban to keep order in Herat, Afghanistan, and to send taxes collected back to senior Taliban members.

Detainee (through translator): Taxes belong to the tax department in the Ministry of Finance; security belongs to the Police Department. When there were problems with either of these departments, I would intervene. I would also intervene when there were problems with the merchandise. I was the link between the public and the government.

Presiding Officer: Did you collect taxes?

Detainee (through translator): Taxes belong to the tax department, not me.

Presiding Officer: Did you have anything to do with sending taxes back to the senior Taliban?

Detainee (through translator): Taxes were collected through the bank and only people with a certain authorization paper from Kandahar could withdraw money. There was a lot of cash flow in Heart. If I had access to that money, there is a possibility that I would become a much bigger guy than the Taliban leaders.

Board Member: Are you saying you were not directly responsible for the money?

Detainee (through translator): No. It was out of my control.

Designated Military Officer: (3.a.10) After arriving in Herat as Governor, the detainee spent much of his time establishing himself as the premier narcotics trafficker in the

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region. The detainee purchased three walled compounds in Herat and transformed these compounds into large storage facilities for opium and vehicles, which would be used in smuggling operations.

Detainee (through translator): There are two very important allegations against me: This one and another that will come later on. I declare that no one can prove that I know anything about narcotics or opium. If they prove it to me, then I will answer them. Except for the heritage that came from my father, there is not one foot of land, or a building, or a store, or a shop in my name. If I had bought some land and was involved in trafficking opium, I would have to get it from somebody and no one can say that.

Board Member: As governor of Herat, is narcotics trafficking a major problem in Herat?

Detainee (through translator): Before the Taliban prohibited it that was like regular business.

Board Member: As governor for the Taliban, were you involved in prohibiting that business?

Detainee (through translator): Yes, after it was made illegal.

Designated Military Officer: (3.a.11) On 25 October 2001, the detainee provided money for troops and money for fuel purchases used to send 300 men from the Taliban 17th Army Division in Herat to Sabzak Pass in Badghis Province.

Detainee (through translator): As I mentioned earlier, there was a government that allocated a budget for each division or platoon. It was not my job to send any military platoon or division to any place.

Designated Military Officer: (3.a.12) The detainee fought against the Northern Alliance and United States forces in November 2001.

Detainee (through translator): It is said that when bombing started, I went to Kandahar, so where did I fight the Northern Alliance?

Designated Military Officer: (3.a.13) When bombing of Afghanistan started, the detainee traveled in a convoy of 10 vehicles to Arghastan, Afghanistan. The vehicles were full of weapons.

Detainee (through translator): The cars contained Taliban officials and we surrendered them to the new government. The vehicles had no weapons in them.

Designated Military Officer: (3.b) Training. The detainee received military training for a short period of time at Camp Marof, near Kandahar, Afghanistan, when the detainee was in his teens.

Detainee (through translator): This is a misunderstanding that they haven't cleared up. The truth is that they asked me whether I have done Jihad; I told them that I did it for a few days when I was a young boy. That was during the time of the Soviet Union occupation.

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Presiding Officer: Did you receive any military training at all?

Detainee (through translator): No.

Designated Military Officer: (3.c) Connections/Associations. (3.c.1) As Taliban spokesperson, the detainee met many influential Taliban leaders. On one occasion at the Kandahar Airport, the detainee saw Usama bin Laden with his entourage.

Detainee (through translator): Yes, I had seen the top leader, but I had not talked to him. One time, I went to Kandahar Airport and accidentally saw him. I had not conducted any meeting with him. After we prayed at the Mosque, we kind of shook hands and talked. When I asked about them, I was told they were Arabs remaining from the time of the Russians. Since that one time, I had not seen him. My job was to give war news to the public.

Board Member: Khirullah, you are saying during your time as governor of Herat after you were a spokesman for the Taliban, you never met Usama bin Laden again?

Detainee (through translator): Except that one time, I never saw him again.

Presiding Officer: Thank you.

Designated Military Officer: (3.c.2) The detainee was known to have close ties to Usama bin Laden.

Detainee (through translator): If anybody has a witness or anything, show me one proof or a recorded conversation that I had seen or talked to him. I am wondering where this statement comes from. There are a lot of Taliban officials now living in Kabul that you trust. You can ask them about me. Those people know me better than my enemies in Afghanistan because they were sharing the government with me and they knew what I was doing.

Designated Military Officer: (3.c.3) In 1996, the detainee attended a meeting in Kandahar, Afghanistan, which included jihad fighters and guest of Usama bin Laden, who was also present.

Detainee (through translator): That never happened.

Designated Military Officer: (3.c.4) On 07 January 2000, the detainee and three other Taliban officials attended a meeting with Iranian and Hizbi Islami-Gulbuddin Hikmatyar faction officials. Topics of discussion included United States intervention in the region, restoration of peace in Afghanistan, and strengthening the Taliban's nascent ties with Iran.

Detainee (through translator): Yes. There was a meeting with the Taliban delegation on Iran's soil. There were no Gulbuddin representatives.

Board Member: During the meeting about restoration of peace in Afghanistan and strengthening the Taliban's nascent ties with Iran, what ties were you strengthening?

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Detainee (through translator): The Iranians were trying to make peace between the Northern Alliance in the Taliban. That was the agenda of the meeting. It was not about improving the relationship with Iran.

Board Member: Thank you.

Presiding Officer: Did it include discussions about the U.S. intervention in the area?

Detainee (through translator): They said to join the Northern Alliance in order to defend Afghanistan.

Designated Military Officer: (3.c.5) In the fall of 2001, the detainee met with senior Taliban leaders for a period of approximately 10 minutes, at a house across from the Kharq-e-Sharif shrine.

Detainee (through translator): A Taliban leader's brother had died and I went to a ceremony for the wake in his house, which is different.

Board Member: Are you talking about a funeral?

Detainee (through translator): Sympathy.

Designated Military Officer: (3.a.6) In November 2001, the detainee met with an Iranian diplomatic delegation. The Iranian Government was prepared to offer anti-aircraft weapons to the Taliban for use against the United States and Coalition Forces operating in Afghanistan.

Detainee (through translator): This never happened. This talk took place in the first meeting.

Presiding Officer: The meeting in January 2000?

Detainee (through translator): It only happened in the first meeting. The Iranians offered to buy weapons for us because we were on restriction and could not buy them. That is the truth.

Presiding Officer: It says they were prepared to offer anti-aircraft weapons. Did they ever provide them?

Detainee (through translator): When the delegation went back to Kandahar the bombing started, so the proposition fell apart.

Designated Military Officer: (3.a.7) On 20 December 2001, the detainee met with Taliban leaders in Afghanistan.

Detainee (through translator): Maybe yes, maybe no. I don't remember.

Designated Military Officer: (3.a.8) When the Taliban lost control of the government, the detainee called a senior Taliban leader for counsel. The detainee met with one of the leader's representatives and discussed the new government and the detainee's future safety.

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Detainee (through translator): This is not true. I talked to the new government representative, Karzai, by telephone and I inquired about a job opportunity. This is the fact.

Presiding Officer: Thank you.

Designated Military Officer: (3.d) Intent. The detainee has instigated other detainees to cause problems, including making noise, not eating, killing themselves, not showering and pushing the door during a search.

Detainee (through translator): These allegations are false. Soon you will hear that two days ago, I was trying to kill myself. There was no spoon in my meal so I asked the guard for one. A few other detainees shouted that they did not have spoons either. The sergeant said he was sorry and that from orders of his boss, he could not provide me with a spoon. When I asked for the reason, he said that I was trying to kill myself and encourage others to do the same. A block sergeant came in to search my cell and two other detainees for spoons. I went on hunger strike for two days because the guards were treating me badly. At that time, I was at Camp V. I did not encourage anyone to kill themselves. Today the guards gave me a new set of clothes. I was wearing only one shirt in the cell after a guard brought a black shirt and asked me to wear it. The guard said that was a psycho shirt for people trying to kill themselves. This sergeant number is 560.

Presiding Officer: Thank you.

Designated Military Officer: (3.e) Other Relevant Data. (3.e.1) In February 2002, the detainee traveled to Chaman, Pakistan.

Detainee (through translator): Yes. I was sick and went there for treatment and came back.

Designated Military Officer: (3.e.2) During the second day in Pakistan, the detainee went for lunch to the home of the former Taliban Governor of Kabul, Afghanistan. Pakistani authorities arrested the detainee when they raided the house in a search for the Governor of Kabul.

Detainee (through translator): Yes. They came for him and I was there. That was my destiny.

Presiding Officer: So you were there to visit the former governor of Kabul?

Detainee (through translator): I was in another house where he came and invited me to have tea with him. I went to his house and was arrested there.

Presiding Officer: Did they also detain or arrest him?

Detainee (through translator): No. They didn't arrest him. He left.

Designated Military Officer: (4) The following primary factors favor release or transfer. (4.a) The detainee stated that upon his return to Afghanistan he will rest.

Detainee (through translator): Yes.

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Presiding Officer: When you return to Afghanistan, other than rest, what are your other plans for employment?

Detainee (through translator): It depends. If my service is needed, I will serve the public. If not, I have some land and if there is water, I will do some farming. I can also go to the city and work. I want to live in my country unless there is some type of situation that will make it hard for me to live there in which case I will go far away and ask for political asylum.

Designated Military Officer: (4.a.1) The detainee stated if the government is stable he intends on being part of the government. He will grow crops and work at the bazaar.

Detainee (through translator): If the government needs my service, I will serve the public. If not, I will grow crops or work at the bazaar in the city. There is a delegation that came here and some of them don't want me to be released.

Presiding Officer: Did you hear the Afghan delegation say something?

Detainee (through translator): They told me that they had doubt about my Afghan citizenship. I have land there, I have citizenship identification and they accused me. I didn't like that.

Presiding Officer: Did you meet with an Afghan delegation recently?

Detainee (through translator): Yes. Most of them were good people, only two of them would not be happy to see me release.

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.

Presiding Officer: Khirullah, do you wish to make a statement? This is the time you couldn't tell us something that was not covered in the Unclassified Summary.

The Detainee made the following statement:

Detainee (through translator): I never had any connection with any organizations. I worked for the Taliban government to serve my country. I don't have any connection with any neighbor countries. I am from Afghanistan and I would like to live in Afghanistan. I am an Afghan. If I am trusted by my people to serve them, I would like to serve them; otherwise, I will stay home. One of my neighbor countries sent me to you. I am ready to answer any wrong allegations anybody told you. Thank you very much for giving me an opportunity to talk.

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Presiding Officer: You're welcome. Khirullah, does that conclude your statement?

Detainee (through translator): Yes sir.

The Assisting Military Officer stated that he had no additional comments.

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 U.S. forces began bombing Afghanistan, why did you travel East versus going to Iran?

Detainee (through translator): That's a good point. It's because I wanted to stay in my own country. I was responsible for Herat, but my village, my people, and my land were in Arghastan, Kandahar.

Board Member: Thank you.

Presiding Officer: Khirullah, do you have anything else to present?

Detainee (through translator): No. That's it.

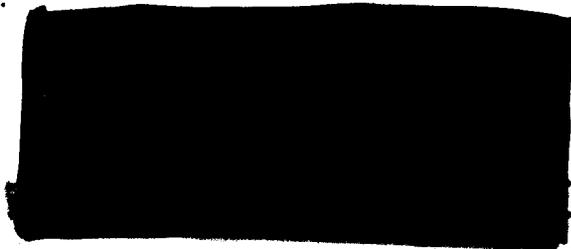
The Presiding Officer read the post-Administrative Review Board instructions to the Detainee and adjourned the open session of the Administrative Review Board.

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.



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