

After the Tribunal President explained the hearing procedures to the Detainee, the Tribunal President asked the Detainee if he had any questions concerning the Tribunal process.

Detainee: Yes, I have any questions concerning the Tribunal process.

Tribunal President: What is your question about the process?

Detainee: Since I was working with the government of Afghanistan and I was a worker for the government and I am detained up to now in here for a long time. What is my crime? What did I do wrong?

Tribunal President: That is what this Tribunal will determine, if you are an enemy combatant and that definition has been read to you before. This is not a criminal Tribunal, this is a process to determine whether you are an enemy combatant. We will have an opportunity during this open session to review the unclassified summary of evidence and you can provide more statements on those later.

Detainee: That's good.

Tribunal President: You requested one witness. I understand that witness is Mohammad Akhtiar. Is that correct?

Detainee: Yes.

Tribunal President: I would like to know if you would start your statement about the unclassified evidence before or after we question this witness?

Detainee: After.

Summarized Sworn Detainee Statement

The Personal Representative presented his notes regarding the Detainee's responses to paragraph 3 of the Unclassified Summary of the Evidence (Exhibit R-1).

- *3(a) The detainee is a member of an organization that associated with and supported al Qaida.*

Personal Representative: That is not true.

- *3(a)(1) The detainee originally lived in Afghanistan, but left with his family during the conflict with Russia.*

Personal Representative: That is true. During the conflict with Russia, my entire family left and went to Pakistan. I lived in Afghanistan first in the province of Lugar, the village

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of Moseh, district of Charasab. We left Afghanistan because Russia bombed our home and it was not safe to live there anymore. We went to Pakistan as refugees. I was only a small boy then.

Personal Representative [to Detainee]: Would you like to add anymore?

Detainee: No, I don't want to add any more. This is correct. Whatever he said, but if there were anything wrong, I would correct it.

- ***3(a)(2) The detainee returned to Afghanistan in April 2003 and at that time, he became a security guard under the leadership of a local General.***

Personal Representative: Yes, of course it is correct. I did return to join the new Karzai government. I did work as a security guard for an American compound and an Afghanistan compound next to each other. I was a security guard for the government for only ten days and then I was captured on the tenth day. I was only back in Afghanistan for 13 days total. In all, when I moved from Pakistan to Afghanistan it was 13 days.

- ***3(a)(3) In his role as a guard, the detainee was issued a Kalashnikov rifle and he was assigned to guard a warehouse used for storing fuel.***

Personal Representative: Yes, this is true. I remember it was a fuel depot, a warehouse that belonged to the government. I am not sure of what was in the warehouse, as I never went in it. It looked like a depot for oil but I never saw what was inside. I can't lie, because the other people, when I asked them, they would tell you that it is an oil depot, but in fact, there was no oil in it. It was empty.

- ***3(a)(4) The detainee was captured at the home of a suspected Hezb-e-Islami Gulbuddin (HIG) commander.***

Personal Representative: This is not correct. It was the Americans that captured me. Never was I there at that home. In the house I was captured, it was rented. The night at the house it was Akhtiar Haji and I. I never knew who owned the house, as I was very new to the area, on there 10 days. When we came from Pakistan, we traveled with four people. Safula, Batahaji, Babraq and myself. And Batahaji was a friend of Akhtiar Haji. They were from the same tribe. That's the house we were captured at. That night, I actually went to the house because I had a toothache. And Akhtiar Haji could help. I didn't have any idea that Akhtiar Haji was a commander. He was not a commander. I never asked him because I was new in town and I was a guest in his house. I did not previously know him.

- ***3(a)(5) HIG is known terrorist organization that has long established ties to al Qaida.***

Personal Representative: I did not even ever know HIG or what even al Qaida was.

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- **3(a)(6) The detainee is a member of the Itihad Islami (II), a known HIG front organization, and when captured had an identification card.**

Personal Representative: This is not correct. I did not have any card on me. I was not a member of HIG or the Itihad Islami. In interrogation, I told them that, I never had any card. But my other friend, Akhtiar Haji had a card. I told the people that captured me, it was his card. I never even saw the card.

- **3(b) The detainee participated in military operations against the United States and its coalition partners.**

Personal Representative: This is not correct. This is completely wrong.

- **3(b)(1) The detainee, as HIG commander, and his brother have been linked to several attacks against U.S. forces in the vicinity of Jalalabad, Afghanistan.**

Detainee: No, this is not correct. When I came back to Afghanistan from Pakistan, I never even went to Jalalabad. I had only been in Afghanistan for 10 days. How could I be a commander of HIG. I came to join the new Taliban government. Not the Taliban government, but the new government of Afghanistan.

Personal Representative [to the Detainee]: Do you have anything else you would like to add or say?

Detainee: I don't have anything to add because whatever it was I told you and he described it for me. I want to say I came to Afghanistan to join with the new government to support my family and kids. We have to help our government for the future generation and to rebuild Afghanistan. If anybody comes forward as a witness to say that I was a commander opposite of the new government or Afghanistan government, in Afghanistan, Pakistan or anywhere else, or testify that I was a commander and my brother help me against my government and the Americans I am to blame and by my own will I will stay in jail for the rest of my life.

Tribunal President: Personal Representative, do you have any questions for the Detainee.

Personal Representative: Yes, I do sir.

Tribunal President: Proceed

Personal Representative Questions for the Detainee

Q: When you went to the safe house, did you live there?

A: In which house?

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Q: The house that you were captured in, did you live there?

A: Yes, I was in that house for only one night. At the time my tooth was painful. But when I came recently from Afghanistan, at the beginning of my trip, I stayed four nights in that house until I got the job as a guard at the depot. The very last night when my tooth was painful, I went there and washed my mouth out to make the pain go away.

Personal Representative: That's all I have.

Detainee: I swear whatever I say is the truth and correct because when I came recently from Pakistan, I didn't see Gardez. I can't be a commander because a commander knows the area and familiar with the cities and regions and I'm not that familiar with the area and regions. This is my testimony.

Tribunal President asked the Tribunal members if they had any questions for the Detainee and the members responded they would hold all questions until they heard from the witness.

The Tribunal recessed to bring the witness into the hearing room. The Tribunal President confirmed the witness was the person requested by the Detainee. The Recorder administered the Muslim oath to the witness, Mohammed Akhtiar.

Tribunal President instructed the Detainee that he could ask questions of the witness with the assistance of his Personal Representative.

Sworn Witness' Statement

Detainee: How is it that you know me?

Witness: You were a refugee with us in the same place, in the same bazaar we have our house and I know him.

Detainee: Where is it that you knew me first?

Witness: In Pakistan.

Detainee: In Afghanistan, why did I go to the guesthouse?

Witness: You and your boss and all your other friends were in my house. Your tooth was painful and you went to the doctor to treat the pain in your teeth. After you visited the doctor, you came to my room. I told him you had to stay the night with me and cook a dish for me and pass your night in my house. You were a kind of a soldier in the National Guard.

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Personal Representative: I do have one question for the witness, just in case it is not addressed by the Tribunal Team. Did you have an identification card to identify you as a member of Hezb-e-Islami?

Witness: Yes. I had it with me during the last interrogation. They told me that it belong to Hezb-e-Islami, I told them no, it belong to Itihad Islami, you can bring it in here and I will show you. And they said that card belongs to Chaman, but the card belonged to me.

Personal Representative: I have no further questions.

Tribunal Members' Questions for the Witness

Q: Was it your house that was raided that night?

A: That rental house. It can't be my house it was rented.

Q: You were renting the house?

A: Temporary, they give it to me but basically it was not rented by me.

Q: Was Chaman visiting you and was not living at the house?

A: No. He was a member of the National Guard, had a job and his own place to stay.

Q: How long were you living in Afghanistan?

A: Since the month of sout, which is one of the sun orbit months and common in Afghanistan. In that month I was a refugee in that year to Pakistan.

Q: And then you came back to Afghanistan? What I would like to know is how long had you been in Afghanistan before your detention?

A: I was two days in that house.

Q: Two days prior you were in Pakistan?

A: I came in fact one month before but I was in another house.

Q: Did Chaman's tooth get fixed in the house that night?

A: Yes.

Witness [to Tribunal Panel]: I request that you forward my membership card to see that it's my membership card and not Chaman.

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Detainee: I don't have that card and it doesn't belong to me. I am not a member of Hezb-e-Islami and my brother is not associated with al Qaida. My request is that these things are not correct and should be removed from my case.

The witness is removed from the Tribunal during a recess.

The Tribunal reconvened.

Tribunal Members' Questions for the Detainee

Q: Did you and the witness come to Afghanistan together?

A: No.

Q: You knew him in Pakistan and just saw him again when you got to Afghanistan?

A: I knew him as much as he was my customer because I had a grocery store and he was a regular customer and no more than that. But as far as me knowing him in Gardez, that is where I got to know him better. I didn't know him in Pakistan.

Q: Why did you come to Afghanistan?

A: My parents gave me advice to go there to work for the government and serve my country.

Q: You have been questioned a lot about this card. Have the interrogators shown you the card?

A: No they didn't.

Q: They just told you they had the card but they didn't show it to you?

A: They didn't show it to me but said that the card was mine.

Tribunal President's Questions for the Detainee

Q: What training did you have to be able to use a rifle?

A: The attendant just placed me over there. They didn't give me any training yet. I had to get a permit with the region and walk around and see and training was supposed to be later on.

Q: So did you have a weapon while you were standing guard?

A: Yes.

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Q: Where was your family while you were detained?

A: In Pakistan.

Q: Do you have a brother?

A: Thank God I have seven brothers.

Q: Was there a brother with you in Afghanistan?

A: No. All of them are in Pakistan. If you are willing, I will tell you each of their names and where they are working.

Q: Do you know if any of your brothers were detained for being a HIG commander?

A: No, not at all. -

Q: As far as you know, they are still in Pakistan, free?

A: All of my brothers are in Pakistan. I'm the first brother to go to Afghanistan.

AUTHENTICATION

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



Tribunal President

Colonel, USAF

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The Tribunal President explained the hearing instructions to the Detainee

Summarized Unsworn Detainee's Statement

Tribunal President: I have noticed from the Detainee election form, that you requested two witnesses for this hearing. Is that correct?

Detainee: Yes. They asked me if I had witnesses and I told them that I don't know anyone in Afghanistan, but I do have witnesses in my hometown.

Tribunal President: I have listed here two names as witnesses, Saidahamad Sharipov and Ziyarat Khojaev. I determined that these witnesses would be relevant to testify in your Tribunal. The United States government has requested on 13 October 2004, that the Tajikistan government locate these witnesses for us. As of 3 November 2004, the Tajikistan government has not replied to our request. Without the cooperation of the Tajikistan government, we are unable to obtain the witnesses for your Tribunal. And the ruling is that they are not reasonably available.

Summarized Sworn Detainee's Statement

Detainee: How I came to Afghanistan, how I came to Pakistan, you want me to start with that?

Tribunal President: We would appreciate if you would address the unclassified summary of information that is most helpful to us. But you are able to provide us with any statement, you so choose. You can cover this or provide any statement.

Detainee: I would like to tell my story of how I came to Afghanistan and how I was arrested. In April 2001, I crossed the border from Tajikistan to Afghanistan. I came to Amman Sahib, it is a name of a place in northern Afghanistan, and from there I went to Cantos province. From Cantos, I took a taxi to Kabul. I looked for my son in Kabul and didn't find him and people told me that the refugees are going to Pakistan and your son has gone to Pakistan.

I took a taxi from Kabul to Khost and took another taxi from Khost to the border of Pakistan, which was about one hour of driving. Then I crossed the border to Pakistan. I went to where there were many taxis and other transportation vehicles. I went to the center of the city with a taxi. And then I asked people how do I get to Karachi. They showed me the bus station where I could take a bus to Karachi. It took me about 24 to 26 hours to get to Karachi.

From Karachi I went to Madras and I found my son in Madras. In the month of June I returned back. They told me that at the border of Pakistan and Afghanistan was a shorter distance at Torah and I went to Torah. Then I took a taxi from Torah to Kabul.

It was in the month of June, and I went to Kudoz province. It was about the 27th of June when I got there to the area in Kudoz. There was a river and by the banks of the river, I stayed for a long time. I wanted to cross over and go to my hometown, but I couldn't, so I just stayed there.

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The month of September arrived and this tragedy happened in the United States and it became even more impossible to cross over into my country. People were saying that any foreigner who was in that area were going to be arrested and handed to the Russian government. I was really afraid and escaped from that area and went to Kudoz. When I came to the center of Kudoz, there were too many people in the city and it was overcrowded.

Two Afghan strangers, with an accent that I couldn't understand their language very well, they gave me a very old AK-47. I didn't accept the gun from them and they beat me with the base of the gun. I couldn't do anything so I took the gun and threw it on the truck and I got on the truck. This truck was very crowded with too many people and I couldn't move. It was in the evening and I could see the mountains. As we were traveling, I could feel that the streets were made of asphalt. We came to a rest area and we used the bathroom, we washed ourselves a little and it became morning.

In the morning, I noticed there were seven or eight vehicles by the side of the road. In that area, you could only see the paved street and on the side of the street there was nothing else you could see but the dessert. Very far away you could see suburb type houses. The vehicles were coming and going and I didn't understand what was going on. When we got back on the truck, I noticed on the side of the street, there were a lot of AK-47's there.

As we start moving toward the town, it became even more crowded and you could see the center of the town. There were homes and people there. Once we got to the town, there were a few vehicles there and people were on these vehicles and we got out of one of the vehicles and we were searched. They took what ever that was in our pockets. There was a small house and we were taken into this house. This type of house I had never seen before. You could see these types of houses in Kabul, but not in our area.

They pushed us inside of this house. They took us in the basement. The basement was cooler and they kept the food items there. They gave us some blankets and pillows and brought us some food. It was dark but you could see a light at the end of the basement and people were trying to reach the light, heading towards the light. I did the same. But at this time, I could hear a few explosions and I didn't know from what area the explosions were coming from.

When we reached the entrance of this place, we saw a guy standing there with a Kalashnikov and allowed one person at a time to exit this place. When I got there he told me to take off my shoes. He examined my shoes and the back of the shoes was torn. He told me to put it on again. When I went up top, they took the shoes away from me. They tied my hands behind my back.

They took me out of the house and I saw other people with their hands tied behind their backs and they were on their knees. There were a few rows of these people with their hands tied behind their backs. There was my row and a row behind me. At this time, I heard more explosions and some gunshots. I lay down when I heard the shots and I saw people running everywhere and everyone was trying to get out of that area. I stood up and went back inside the house. I went back into the basement and was there for about seven to eight days. And when I look up I could see the fires and what seemed like fireworks, because of the shooting.

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I smelled gasoline and someone was pouring gasoline from atop. It was in the morning when water began flowing into the basement. I could see daylight but I couldn't tell what time it was. The water was flowing into the basement all day until the evening. I went back to the exit, the opening where you could get outside. As I exited, a line of people was leaving this place.

I was taken and one person gave me water. They brought fruit to me and I could open my eyes at this time because, now I had energy. They brought me a jacket and soft shoes and I think it was from the Red Cross. They put us in a car that was covered with cloth. It was nighttime and I didn't understand where we were going. We traveled some distance and we got out of the covered truck.

They took us to a guy and someone said this is Dostom. Then we were taken his guesthouse. This guesthouse turned out to be a jailhouse. The cells were very small and too many people were there and I don't know where all these people came from or where he got them. It was the month of Ramadan and we didn't even have water to drink. I stayed there for about one month.

On a cold day during the daytime they took us out of this place. I saw men in uniforms. I think they were Americans. They stripped searched us and examined our bodies for medical reasons. They put us on this truck and took us to an area where I could hear the sound of an airplane. They put us on the airplane and it took us to Kandahar. I heard the name Kandahar from our radio, but I never had seen it or didn't know much about it. When we arrived in Kandahar, things were a lot better. We had tents and more freedom. We were given medicine if we needed it and food and water. If you refused water they insisted that you drink the water. I didn't know at that time that drinking water is good for you. The water was bottled and in our country we called it mineral water. They were nice to us. Now I'm in your prisons. I am here.

Tribunal President: Does that conclude your statement?

Detainee: Yes.

Tribunal President: Personal Representative, do you have any question for the Detainee?

Personal Representative Questions for the Detainee

Personal Representative: Yes sir. You went to Pakistan and saw your son and then you traveled back to Kudus, Afghanistan and you wanted to cross the river to go to your home country. Why didn't you cross the river?

Detainee: You could see our villages from Kudoz.

Personal Representative: Why didn't you cross the river?

Detainee: They asked me about this during interrogations and I said it many times that crossing this river, from Tajikistan to Afghanistan is much easier because people were working on their farms and from the banks of the river, the farms extend and you could sit by the river and you would be on your farm. So it is easier to cross the river to Afghanistan but going from

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Afghanistan to Tajikistan, they have barbed wire. You have to cross the wire and then go to the river and then cross the river. It is difficult.

Personal Representative: You were in Kudoz in July and August? Maybe more.

Detainee: All the time until September 11th happened, I was in that area between Kudoz and a small area that is in the province of Kudoz.

Personal Representative: What did you do there? Did you have a job?

Detainee: I was there by the border and I was thinking the whole time, how to cross the river and how to get back home. I'm sorry, if I am not clear but if you take me over there, I will show you the point where I was trying to cross the river.

Personal Representative: Then you said two strangers from Afghanistan that you couldn't understand because of their accent gave you a very old Kalashnikov, is that correct?

Detainee: At the time that they took us on the truck, this was about the time that September 11th happened. This was around the same time that these things happened.

Personal Representative: So when they gave you the gun and you said you didn't want the gun. What did they want you to do with the gun?

Detainee: I was just a stranger there. Doesn't matter how hard I tried, people notice a stranger and I had to obey the citizens of that city and I didn't understand what was going on. At that time, that was all I could see. I couldn't see beyond that and now that I'm here, I think the whole thing happened for the money. It was a deal between people. Some money was taken or passed. This is what happened. I'm not complaining and I don't have anything against you nice gentlemen here. I do obey my faith, which is from God. I don't have any choice but to accept my fate or destiny.

Tribunal President's Questions for the Detainee

- Q: When you were given the Kalashnikov, did you know if it had ammunition?
- A: You need to check the magazine and visually check it to see if there were bullets in it. I didn't do that but there was a little bag and it was kind of heavy and it felt like stones in the bag but I think they were bullets and I think there was a magazine in the bag. The machine gun and the bag was part of the whole package, and it was given to me, which I threw in the truck.
- Q: In your statement you said that you traveled on this truck into the mountains and got out. It's not clear to me if you had a weapon from that point to the town.
- A: It wasn't a town, it was a rest area where I spent the night over there and I saw cars also.

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Q: While you were at the rest area did you hold the weapon?

A: It was lying on the floor of the truck.

Q: After you got out of the truck, you went to a town. Is that correct?

A: When we started to go towards this town, we saw a lot of weapons on the side of the street. A large pile of weapons.

Q: Did you walk from the rest area to the town?

A: They put us on this truck and we could see the other vehicles were coming and going to this town. When we got to this town we saw that people and businesses were there and they took us to this house.

Q: When you entered the house, did you give up your weapon at that time?

A: No, I didn't have my machine gun with me because the people of the town were searching everyone and I don't know what they did with it. So I didn't have a gun or anything on me.

Tribunal Members' Questions for the Detainee

Q: The last time you touched the gun was when you threw it in the truck and you didn't touch it after that?

A: I don't know who took it and at what time they took it from the truck, but I didn't see it again. They asked me in Kandahar and soon as I started to talk, they stopped me and didn't let me finish me story. But here, everyone listens to my story and I told you in detail.

Q: Have you ever fought with the Taliban?

A: I'm sorry, no; I have nothing to do with the Taliban.

AUTHENTICATION

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

Tribunal President

Colonel, USAF

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