

IN ABSENTIA

The Tribunal President confirmed the Detainee elected not to participate in the Tribunal process, despite originally opting to participate on the Detainee Election Form Exhibit D-A.

The Tribunal continued "In Absentia".

Tribunal President: I note from the Detainee election form that the Detainee chose not to be present. Is that correct?

Personal Representative: Yes sir.

Tribunal President: How did he indicate that choice?

Personal Representative: Sir during the preparation with the Detainee prior to this Tribunal, in which he was originally willing to attend, I told him that his Tribunal was about to be undertaken. At that time, he stated to me that he does not desire to participate or present information to this Tribunal because everything is a lie and this is all a game.

The Recorder presented Exhibit R-1 through R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

3.a. The Detainee is associated with Al Qaida.

3.a.1. The Detainee traveled from Yemen to Afghanistan via Pakistan in August 2001.

3.a.2. The Detainee participated in military training at a camp in Kandahar, Afghanistan between 26 July and 18 September 2001.

3.a.3. The Detainee was in Nabras guesthouse where he spoke to Osama bin Laden.

3.a.4. The Detainee was captured in a group of Arab fighters while attempting to flee Afghanistan by Pakistani forces in December 2001.

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: Personal Representative you previously communicated that the Detainee requested one witness from Yemen identified as Abdullah Hemyari, his father. And he also gave a location and address. I received that request on or about the 16 of November and I determined from the expected testimony that it would be relevant to this hearing. I requested the United States government attempt to locate this witness and contact him. The Department of State did contact the Yemen government on or about 22 November. As of the date of this hearing, the Yemen government has not responded to the United States government request for assistance. I have determined that there has been a reasonable amount of time for the government to respond and without the cooperation of that government; we are unable to contact the witness for testimony. I therefore reconfirm my previous ruling, which is that I am forced to find that this

UNCLASSIFIED/FOUO

witness is not reasonably available. An alternative method of obtaining that witness' testimony is also not available because of the lack of cooperation from the Yemen government.

Tribunal President: Did Abdullah Mohammed Al-Hamiri desire that you present information to this Tribunal on his behalf?

Personal Representative: Yes, sir. He did.

Tribunal President: You may present that [statement] at this time.

Personal Representative: Thank you sir. I first met with the Detainee on 6 November 2004. At that time the Detainee determined that he did not want to participate in the Tribunal. He did make some comments regarding unclassified summary of evidence. He stated that I would provide that information to the Tribunal. During a follow up and final interview on 15 November 2004, the Detainee had elected then to participate in the Tribunal. At that time he also stated that he would participate in the Tribunal but would merely sit there passively and allow his PR to present the information as he observed the process. Finally, prior to this Tribunal and pending the witness request statement from the Yemeni government, I met with the Detainee and as previously mentioned he determined that he does not want to participate in the Tribunal and that I may present the information. I only have a few comments regarding the Unclassified Summary of Evidence. During all of the pre-interviews, the remained surprised, disbelief, believing that all the charges against him were made up by the United States government to keep Muslims in the prison. That all the information except that he did travel from Yemen to Afghanistan via Pakistan on August 2001, are simply not true. He did not participate in military training at a camp in Kandahar, Afghanistan. He also stated that he was not at the guesthouse where Osama Bin Laden spoke. He was captured with Arab fighters but not while attempting to flee Afghanistan. He says that he has been here three years speaking with interrogators and that he would listen to me out of respect as we proceeded through the interview. He said that everything is in his file from the moment that he stepped out of his house to the moment he was arrested. He also informed me that Americans got any Muslims they could in order to serve their own purpose. He never had a weapon, never carried one and never even killed a chicken. He said he trained, he never met Osama Bin Laden. He did go to Jordan but he was captured in the end by himself as previously mentioned not as he was fleeing nor was he with a group of Arabs. He continued to remain frustrated at the allegations and the evidence against him. His only and sole reason to travel was to go for medical reasons and surgery was in Pakistan. He never did make it make it to the hospital in Pakistan. They did not do the operation. They only did an initial check up and that in essence was the extent of the interview. To sum it all up, the only piece of evidence he had admitted to on the unclassified summary was item number one. He vehemently denies items number two, three and four. All of those charges he said were made up in order to keep him and other Muslims at this camp.

The Recorder has no questions.

Questions from the Tribunal Members to the Personal Representative

Q. You mentioned Jordan?

UNCLASSIFIED/FOUO

ISN#249
Enclosure (3)
Page 2 of 3

002323

UNCLASSIFIED/FOUO

A. If you would give me a moment to review through my notes. I stand corrected. My hand-scribed notes have "went to Jordan" but after looking at the Unclassified summary it says from Yemen to Afghanistan. I don't recall if during our initial interview he mentioned Jordan or not but he may have mentioned it, however his ultimate destination was from Yemen to Afghanistan through Pakistan. Jordan may have been one of his stops (Tribunal President interrupts).

Q. Or a previous trip at a previous time, maybe?

A. Sir, I don't recall there being a previous trip. I just started taking notes about going to Jordan and then he went off on a different topic.

Questions from the Tribunal President

Q. The only question I have is that you mentioned that he went for medical reasons, did he ever say why he was going there? For what medical condition?

A. Yes sir. Apparently he had either a metal plate or metal pieces lodged in to his head; which he had for quite some time and he was going to Pakistan to have those removed. And one of the reasons, sir, that he wanted the witness statement from his father was that his father could not only attest to the fact that he had this medical condition but also that he did travel to Pakistan and he may have even provided some documentation.

The Personal Representative has no further evidence to present on behalf of the Detainee.

The Tribunal President explains the remainder of the Tribunal process and adjourns the Tribunal.

AUTHENTICATION

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


Colonel, USAF

Tribunal President

UNCLASSIFIED/FOUO

ISN#249
Enclosure (3)
Page 3 of 3

002324