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SUMMARIZED WITNESS TESTIMONY:

Tribunal President: Ashraf Salim, you are here by advised that the following applies during this hearing. You may be present at all open sessions of the Tribunal. However, if you become disorderly, you will be removed from the hearing and the Tribunal will con... [Detainee interrupts Tribunal President before she could complete her sentence.]

Detainee: How would I disturb order?

Tribunal President: Becoming too emotional. Not listening to the Tribunal.

Detainee: I will not do any of that.

Tribunal President: It was a warning, just in case.

Detainee: I just understood that, disturbing the order. That I am not going to be doing that.

Tribunal President: I'll start that sentence over. If you become disorderly, you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence. You may not be compelled to testify at this Tribunal, however you may testify if you wish to do so. Your testimony can be under oath or not under oath. You may have the assistance of a Personal Representative at the hearing. Your assigned Personal Representative is present. You may present evidence to this Tribunal, including the testimony of witnesses who are reasonably available and whose testimony is relevant to this hearing. You may examine documents or statements offered into evidence other than classified information. However, some documents may be partially masked for security reasons. Ashraf Salim, do you understand this process?

Detainee: Yes, I understand, but I think some of these procedures are reasonable and others are not reasonable.

Tribunal President: Okay, so noted. Do you have any questions concerning the Tribunal process?

Detainee: We are getting into classified and unclassified. All this is just about me proving what I did. If I did the things I did, I would admit that I did. Things I didn't do, I will say clearly I didn't do them. But if the Tribunal is saying there are classified things, classified information - they have to prove that. I am not asking to see the witnesses, if you have any. I need just their names to prove that your documents are true. I think this is not justice if you accuse someone based on the classified information. This is not justice; it is not right. It hasn't been witnessed in the whole human history. If you base your judgments or the accusations against me on classified information, then there is not need to continue. Let's just stop it right here.

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Tribunal President: Ashraf Salim, I have classified information that is being presented by the Government. If we release all of that information, it could cause harm to the national security of the United States.

Detainee: What harm or danger could you expect from someone in shackles who cannot even move, like me?

Tribunal President: There is an opportunity later on in this process for you to communicate with your family or other people outside of this compound. If you have information that could harm the United States, we cannot release that information at this point.

Detainee: So if I want to help myself by bringing witnesses or documents of things that are outside this place, how can I do that?

Tribunal President: You had the opportunity to ask for witnesses. Personal Representative, did you offer the Detainee the opportunity to ask for witnesses?

Personal Representative: Yes, Ma'am.

Detainee: That is true, the Representative told me I could contact witnesses. But I had to go through the Representative. I refused that and I want to talk to my witnesses personally.

Tribunal President: The only way that you can ask for a witness is through the Personal Representative. We must involve the U.S. Government to communicate with your Government to find the witness.

Detainee: I guess they will not contact these people, but will imprison them. As far as I know, in all the history of the human race, I don't think there have been any Tribunals of this forum or this kind. You did swear to do your job rightfully and just. Unfortunately, now you are just following orders or a pre-determined way of conducting this Tribunal.

Tribunal President: Ashraf Salim, you are correct. There is a higher authority and we have to follow the rules of this Tribunal. I cannot change the rules of this Tribunal. Right now you have the option of participating in this Tribunal or not participating.

Detainee: I will participate under one condition. I want to be allowed to talk personally to the witnesses. You control the forum, but I want to talk to the witnesses personally. For me to give you the name and numbers of somebody, I know soon I will see that person here next to me.

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Tribunal President: Ashraf Salim, you do have the option of communicating with a witness through the U.S. Government. That is the only option.

Detainee: I know my fate is already predetermined and the judgment has been pronounced already. So this Tribunal is just for show and it is not real. Everybody is reading from papers that are already printed and everything is already pre-determined. I know for sure my destiny is already determined. The judgment against me is already made up. My presence, me defending myself or not defending myself, will have no importance whatsoever.

Tribunal President: Ashraf Salim, we have not seen any classified information. We will base our decision on unclassified and classified information. If you want to have a witness here, we will allow for a witness. But we have to make a decision right now on whether you want to participate or you do not want to participate. Ashraf Salim, I will ask you one more time. Do you want to participate in this Tribunal?

Detainee: One thing, is this unclassified document [referring to the Unclassified Summary of Evidence] what the Personal Representative showed me? Or is it something else?

Tribunal President: Yes, that is the unclassified summary of evidence.

Detainee: There is no proof of all this. So give me the proof. You just swore to be fair and just. But again, don't just go by what is given to you. You have to go by what's right and what's correct.

Tribunal President: Ashraf Salim, you have the opportunity to give us your statement. If you don't want to give us a statement right now, then we will stop this proceeding and allow you to go back to your room.

Detainee: Before I answer this question, I would like to ask you one more question. The classified information is going to stay classified until when?

Tribunal President: It will stay classified forever.

Detainee: I will not have a chance to take a look at the information?

Tribunal President: No.

Detainee: Then there is no need for us to continue talking. That means you just made your decision and that is it.

Tribunal President: Ashraf Salim.

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Detainee: You are telling me that you have classified information or classified proof and I am not allowed to read it or see it? So where is the justice here?

Tribunal President: Ashraf Salim, do you want to participate in this Tribunal? Yes or no?

Detainee: No. Under this way, no. But I want to participate in a just way. Not this way.

Tribunal President: This Tribunal is in recess until the Detainee can be removed.

Recorder: All rise.

The hearing recessed and reopened. All parties, with the exception of the Detainee were present.

Recorder: All rise.

Tribunal President: Be seated. We will continue without the Detainee being present. We will go to the in absentia script. Okay, we are going to start at the point where we decided to admit the Detainee form. But first let's confirm the Detainee received his rights and understood his rights.

The Personal Representative stated he notified the Detainee of his right to be present; his right to make a sworn or unsworn statement; his right to the assistance of a Personal Representative; his right to present witnesses and evidence; and his right to review unclassified evidence. The Personal Representative stated the Detainee verified he understood those rights, as well as the Tribunal process.

The Personal Representative submitted Exhibit D-A as evidence to the Tribunal.

The Tribunal President was satisfied the Detainee understood his rights and ordered the proceedings to continue without the presence of the Detainee.

The Recorder submitted Exhibits R-1 and R-2 as evidence to the Tribunal. The Recorder summarized the general nature of the unclassified evidence. The Recorder had no further evidence and no witnesses to present to the Tribunal and requested a closed, classified session for presentation of classified evidence.

The Personal Representative had no evidence from the Detainee to present to the Tribunal.

The Personal Representative then presented notes from the previously assigned Personal Representative (Personal Representative #31), who had to turn over the case to the current Personal Representative because the previously signed Personal Representative transferred.

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Personal Representative: The Detainee stated he surrendered and he was not arrested or captured. Detainee was a teacher at an elementary/high school. Detainee denies all fighting in Afghanistan. Detainee denies any relationship with Al Qaeda. Detainee stated he fled Kabul prior to the bombing and stayed in Jalalabad. Detainee stated he left the LIFG four years prior to September 11th 2001 and has had no connection since.


Tribunal President: Thank you. Personal Representative, do you have any other evidence to present to this Tribunal on behalf of the Detainee?

Personal Representative: No, Ma'am.

Tribunal President: All unclassified evidence having been provided to the Tribunal, this concludes the open Tribunal session.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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