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Summarized Detainee Statement

**The Detainee indicated that he did not wish to be sworn. The following is a summary of his unsworn testimony before the Tribunal:**

Tribunal President: Muhibullah, you may now present any evidence you have to the Tribunal. You have the assistance of your personal representative in doing so. Do you want to present any information to this Tribunal?

Detainee: Right now or later?

Tribunal President: This is his time right now. We have already discussed the fact that he is going to make a statement without taking the oath. So that's fine.

Detainee: Can I start my speech?

Tribunal President: Yes. If he would like to clarify the dates, he may do so now.

[Earlier in the proceeding, when the Recorder went over the **Unclassified Summary of Evidence (Exhibit R-1)**, the Detainee indicated he did not understand the western dates used in the exhibit. The Tribunal President informed the Detainee at that time that he would have the opportunity to clarify the dates when it came time for the Detainee to present evidence. The Tribunal President's statement – "*If he would like to clarify the dates, he may do so now*" – refers to that earlier discussion with the Detainee.]

Detainee: I do not know the months from this month to that month. All I can verify is the number of months, like if I was with the Taliban for two months or three months. I know how many months I was there. I can't tell you if a specific month is wrong – but I can tell you if I was there for less than or more than that time.

Tribunal President: I am sure that will come out in your statement.

Personal Representative: I am providing the Detainee with the translated portion of the unclassified evidence.

**The Personal Representative handed a copy of the Unclassified Summary of Evidence, translated into the Pashtu language, to the Detainee for reference during his testimony.**

Detainee: Shall I start answering your questions or how can I start?

Tribunal President: You can give your statement any way you wish. If it is easier to do it one by one following the unclassified summary, then by all means go ahead.

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Detainee: I will answer each question one by one.

**The Detainee proceeded to address each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).**

*3.a. The Detainee is a member of the Taliban.*

*1. Detainee was recruited by Syed Sha Agha in late 1998/early 1999 to serve in the Taliban Security Force. The detainee worked in Kabul and carried a Kalashnikov rifle and ammunition for approximately one and a half years.*

This statement is not true -- I disagree with that point. I did work with Syed Sha Agha. At that time, groups were fighting against each other in Afghanistan. It was not a fight against the US or its allies. At that time, the tribe would pick people to fight. I was against fighting, so I went to Syed Sha Agha and told him I would work with him instead of fighting with the other people. He told me he would work with me and they would leave my family alone.

I was with him the first time for two months. The second time I was with him for two months again. So it was like two months and two months. It was not for a year and a half. I did not carry a Kalashnikov during that time. Both times I went there with him, it was for a total of four months. I worked with Syed Sha Agha. Each time when I was with him, I was doing guard duty at nighttime in the street. I had to guard the house to make sure nobody went out at nighttime and robbed people or took their property. While I was doing guard duty, they did give me an AK-47. I would carry it for that one hour time period while I was doing the guard duty. Once I was done with my guard duty, I would bring the weapon back and give it to the next person doing guard duty. It was not my personal weapon. I would have it just for that one-hour time I was doing guard duty.

That year-and-a-half time period is not true. I was there for four months total. Maybe I was there a week less or more. After the four months were done, I went home and stayed. My duties were just guard duty and helping in the kitchen and cleaning the house. That is all I did during that time. Once I was done, I went home. If you have any questions, I can answer them now, or I can go on to the next question.

Tribunal President: Okay. We will move on then.

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2. *Detainee worked for Syed Shah Agha or Abdul Bari, an official in the Shebrehghan region, in Shebrehghan, AF, from November 2000 to February of 2001 and again from September 2001 to November 2001. The Detainee was responsible for civil dispute mediation.*

I did work for Syed Sha Agha and Abdul Bari in the Shebrehghan region for three months. I then went home for six months. Then I came back for three more months. So the total was six months I worked over there. I did not want to do it. I was picked for that job. I did not have a choice. The officials would come to the village and pick people to come with them and work with them. I did that twice for three months each time. Afterwards, I went home. The last time I was doing it, that was when the Americans came to Afghanistan. One thing I would like to add to that question is Syed Sha Agha got sick. Then his brother took over. He was in charge of the area and I worked with Abdul Bari.

The last part of the question stated I was responsible for civil dispute mediation. Yes, I was responsible for that there. Since I am from Kandahar, which is out of the area, I told them I would serve as the mediator for people with personal disputes, like fighting over land or water. Since I was from out of the area, I would tell them I would help them and I would do the best I could. I did this a couple of times. Sometimes they would accept my help because I was not one-sided. I did not know either party. So they would accept whatever I told them, although sometimes they would say no.

Tribunal President to the Interpreter: The Detainee is making some statements that are very long. Are you sure you are not losing anything in the translation?

Interpreter: No Sir, I am fine.

Detainee: Should I answer any questions now or should I move to the next question?

Tribunal President: We will ask questions after you are completely done with your statement.

3. *Detainee attended a dinner hosted by Commandant Kamal at his home in Towraghondi, AF. Kamal was warlord for Ismail Khan.*

I did attend this dinner, but I did not know Kamal. He is not my friend. When the war started I left Shebrehghan. I went to his place because I did not want to go to Kandahar. There was a war was going on in Kandahar also. I was staying at Commander Kamal's place when the war started. People were coming and fighting each other. The Pashtu were fighting. Many people were coming and staying there.

I did not know if Kamal was working with Ismail Khan. Since all the Pashtu were coming to that area and staying, I stayed also. I went to Kamal's place because I have relatives in that area who know him. My relatives told me since they knew Kamal, we could ask him to see if he could help me get home without seeing or fighting anybody.

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Everybody was fighting at that time. I went with my relatives to Commandant Kamal's place to live there. Commandant Kamal stated it would not be a problem and he would help us. He also stated that he took money and property from many people coming from different areas to stay with him. But since I knew people living in his village, he said he would help me. I went there that evening to stay that night.

That night I stayed with Commandant Kamal. The next morning, Commandant Kamal was supposed to hand me over to some person he knew who was supposed to help me get back to my home. Instead, he took from me 300,000 Pakistani Rupees, my watch and everything I had in my pockets. Then he placed me in a jail for fifteen to sixteen days. After that I was handed over to Warlord Ismail Khan. Ismail Khan took me to Kandahar and I was placed in another jail. After the Kandahar jail, I was handed over to the American Government. I was then brought here, spending my life in Cuba.

**The Detainee skipped to item 3.a.5 on the Unclassified Summary of Evidence.**

*5. Detainee surrendered to Northern Alliance forces in November of 2001.*

I do not agree with this point. I did not surrender to the Northern Alliance. I did go to Commandant Kamal to stay with him that night on the promise that he would help me go back to my home village. I do not know if this was a surrender or not. I thought surrender meant you go to someone and say "take me with you," and you give everything to the person. I did not do that. I went there so Commandant Kamal could help me and send me back home. But instead Commandant Kamal put me in jail. I did not surrender.

After that, Commandant Kamal gave me to the Warlord Ismail Khan. It was not a surrender. What happened to me in jail, I am not sure if I should tell the Tribunal, but they beat me. When Ismail Khan put me in jail, it was hard times. I don't know if it is important to the Tribunal, but I wanted to tell you that part.

**After completing his response to item 3.a.5, the detainee went back to item 3.a.4, which he had previously overlooked.**

*4. The Detainee acquired a rifle from a Mujahideen fighter, Abdul Ghafar.*

I do not know this person. I do not know Abdul Ghafar. I do not know if he is working with the Americans or against the American Government. I did not have any rifle or any type of weapon from this person. If the Tribunal can explain this question to me in detail - who is this person, where or when - then I might know something. But with that point, I totally disagree because I cannot remember that person.

Tribunal President: That is fine. We have no further evidence.

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Detainee: I did have one rifle at my house. It was my uncle's. I did use it sometimes to fire at a wedding or celebration. The rifle was not mine. I do not know where they got this accusation - that I got a rifle from Abdul Ghafar, a person I do not know. I know no person by this name. They said he was a Mujahideen fighter. At that time, that is when the Russians were there. Everybody was fighting the Russians. Look at my age. I was not in a position that I would go and get a weapon from somebody. That weapon was not mine. If they said I had a weapon at the house, then it belonged to my uncle. Can I say something else? I remember some more stuff.

Tribunal President: This is your time.

Detainee: One thing I can assure you of - and you can go back to Afghanistan to my village and find people that know me - I did not fight Americans, or any of their allies. I have not fought with any other person before. Three years before the US came into Afghanistan, I may have used the weapon at the house to fire at a wedding or any other celebration. The whole time, no one can say I fought any person or any army, either the Americans or its allies or the Massoud. I did not fight.

As for Al Qaida, Americans spied on us in Afghanistan and your people are here in the jail. They can find out that I had never seen an Arab in Afghanistan. I did not see an Arab until I came here. If they were with Al Qaida or working with them, I didn't see them. The only time I've seen Arabs is here in jail. That was the first time I saw any Arabs. Before then, I'd never seen any Arabs in Afghanistan.

I am from Kandahar, Afghanistan. The only time I went to other places was when I was sick and I went to Pakistan. That is the only time, other than that, nobody can prove I went somewhere else. I was in Afghanistan, I was born in Afghanistan, and I grew up in Afghanistan. And as far fighting against somebody, I can assure the Tribunal - if anyone has any proof against me, any person who may have seen my picture and stated I was the person that fought with or against them - I can take any punishment for that. I can go and take a polygraph if the US Government wants me to. It can prove that I am telling the truth. I am ready for that. Any person you can bring, if they have evidence against me, I will face them and answer those questions.

I like the Americans. I like the new Afghan Government. I answered that before and I can answer it again now. If you cannot trust me, you can put me on any kind of machine. I can take a polygraph and you will see me answering the questions and that I am telling the truth. I liked Americans before. I did not even know when I was in Afghanistan which side was America; either north, west or east. If I did not know them before, how could they be my enemies? Right now, they are not my enemies like some people in the cell are saying. They describe what the American Government did to them or what they are going to do. I am not like that. I am happy with Americans. They are good. They are helping our country. I can answer any questions at any time, and you can check that on the machine.

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The time I spent with Syed Sha Agha, the two months at a time twice; and then the second time, where it was three months at a time; I did that time but I did not volunteer. They picked me for that. At that time, the officials were coming to the villages and picking people to go with them to spend two to three months. Sometimes they would take one hundred and fifty to two hundred people from a village at a time for two to three months. If you lived there, you did not have any choice. Once the American Government came, all those people that did that time, they turned around and fought against the Taliban. Because they were tired of the Taliban, and the Taliban forced them to work for them.

I needed to go and work to support my family. Why should I go and fight or help the Taliban and fight for nothing, when I have a family? I don't think any wise person would go and fight while his family is starving. I did not volunteer. They came and took me by force. Like when I was in the jail in Afghanistan, I told my interrogator in the beginning what happened to me and what Ismail Khan did to me. I am sure he (Ismail Khan) is not a friend of the US and maybe the US realizes it now. He is playing with them now, but at the time he was not. I told them everything along with stories of what happened in the jail. I told them how we were beaten and how we did not have any rights over there.

In Cuba, the way the American Government treats us, we like them. It is humane, they give us our rights. I trust the US Government and I trust this Tribunal. I am sure whatever decision you will make, I will accept it. I hope you will go by the truth and you will look at all the evidence. In Afghanistan, it was different than all of this. It is a lot different than what I was facing in Afghanistan. In Afghanistan in Ismail Kahn's jail, how they were treating us. They were asking us questions, but they would not listen to us. Over there, when the interrogator told me to answer all the questions, I did. When the time was done we would go back. But it is easier here than what we were facing in Afghanistan.

Tribunal President: Muhibullah, does that complete your statement?

Detainee: Yes, I am done now. I can answer questions. But after your questions, I would like to make one request. I told my Personal Representative, and he said I could make this request to the Tribunal.

Tribunal President: Okay, do you want us to do that after questions?

Detainee: Yes, I would like to do that after the questions. It is just a request.

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

Personal Representative: No, Sir. I have no questions for the Detainee. I just request that he tell you what his request is now.

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Detainee: Should I make the request now?

Tribunal President: It's your choice. The Personal Representative recommended you make it now. I will give you an opportunity after all the questions to present any last evidence that you have. You will get another opportunity.

Detainee: Then I will say it at the end.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: No Sir, I do not.

Tribunal President: Do any Tribunal Members have any questions for the Detainee?

Tribunal Member: When you worked for Sha Agha or Abdul Bari after the September 11<sup>th</sup> attacks in the United States, what were your duties?

Detainee: I was doing the civil dispute mediation for them. The people told me what happened in the United States. I was helping people solve their problems when they brought their matters to me.

Tribunal Member: So that was the only duty you had, simply being a civil dispute mediator?

Detainee: That was the only thing I did.

Tribunal Member: Did you carry a weapon at all during that time period?

Detainee: No, I did not have any kind of weapon.

Tribunal Member: Was Syed Sha Aghad or Abdul Bari, at that time period, were they Taliban leaders?

Detainee: Abdul Bari was the brother of Syed Sha Aghad. Yes, they were working for the Taliban. They were not working for the Northern Alliance because they were in the Taliban area.

Tribunal Member: Were they military leaders, or were they some sort of Government leader in the village?

Detainee: They were Government officials in that area.

Tribunal Member: Did they control or command any Taliban military forces?

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Detainee: I was far from this area. They were in one area, and I was working in a different area which was under another commander, Mula Sattar. Abdul Bari was a government official, and I am sure he would have some people, like bodyguards, and use them. But I did not see them personally. I was not in that area under him, so I could not see.

Tribunal Member: In the area where you were working, were you a part of Taliban forces?

Detainee: I did that job because talking between two people, they would solve their dispute. It was a good thing in our village and that is why I did it. To help make peace between people fighting. The other thing I did, the guard duty, was because it was an easy job and I told them I could do that. Those are the two things I did.

Tribunal Member: When you did the guard duty, you were issued the Kalashnikov for the time you stood guard duty, then you would give it back at the end?

Detainee: The weapon did not belong to me. But I did that guard duty when I was in Kabul, not Shebrehghan. My guard duty was not every night, but every second night. When I was doing guard duty, I would get the weapon. When I would finish my duty, then I would give the weapon to the next person. I was carrying the weapon during the guard duty time, but it was not assigned to me.

Tribunal Member: I want to make sure I am not confusing two time periods. Right now, I am only asking about after the September 11<sup>th</sup> attacks. So it is your very last period when you were working with the Taliban officials. Were you doing guard duty at that time also?

Detainee: No. The guard duty, I did it in Kabul. After the September 11<sup>th</sup>, I only did the civil dispute mediation.

Tribunal Member: During that time, were there Taliban soldiers with you?

Detainee: No, there were no soldiers with me at that time. And I was in a different area when I was doing this. This was so people could trust me, that I was not taking anyone's side.

Tribunal Member: Was Commandant Kamal a member of the Taliban?

Detainee: Kamal was working for Ismail Khan. Actually he was a thief. [It is not clear whether "he" refers to Kamal or Ismail Khan.] He is not a commander or anything anymore.

Tribunal Member: Was Ismail Kahn Taliban at the time?



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Detainee: Ismail Kahn was against the Taliban. He was not with the Taliban. The whole story with that is, in that time, the Taliban captured him. Then he got released. So Ismail Kahn started fighting against the Taliban. So basically he was against the Taliban.

Tribunal Member: So when you attended that dinner that was hosted by the Commandant, he was working for someone who was against the Taliban?

Detainee: Yes. They were against the Taliban because they were against the Pashtu speakers. Kamal and Ismail Kahn were catching the Pashtu speakers. Since the Taliban were Pashtu speakers, Kamal and Ismail Kahn were against the Taliban. They were thinking every Pashtu speaker is a Taliban.

Tribunal Member: Anytime after the September 11<sup>th</sup> attacks in the United States, did you carry a weapon?

Detainee: No. Never. Even before that, the only time I carried a weapon was when I was doing guard duty in Kabul. When I was staying with Kamal, there were other people there. Those people were carrying AK-47s. I did not have any weapons.

Tribunal Member: In the area in Shebrehghan, was there any fighting going on between Northern Alliance and Taliban forces? After September 11<sup>th</sup>?

Detainee: I did not know anything about any fighting at that time. I did not see any fighting. The people there, they were not fighting or saying anything about fighting. I did not see any fighting. The question you had asked at that time, who was fighting who? Can I ask if it was the American bombers were fighting Taliban, or the Americans were fighting the Northern Alliance?

Tribunal Member: In Shebrehghan, was there any fighting and if so, who was it between after September 11<sup>th</sup>?

Detainee: No. I have not seen any fighting. Nobody said anything if there was a fight in that area. I do not know if any group was fighting.

Tribunal Member: I think that's all I have. Thank you.

Detainee: You are welcome.

Tribunal President: You mentioned at one point, you were not recruited. You were taken by force and that groups in Afghanistan were fighting. What were the groups that were fighting each other?

Detainee: I think there was no foreign Government at that time. So it must be Massoud or Dostum or from the Northern side. The Taliban were probably fighting those guys and needed people to help them. The Americans were not there at that time.

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Tribunal President: What group forced you from your village to work for them?

Detainee: It was the people working for the Taliban Government. It was their job to go to different areas and pick people from villages. They would train them to help them.

Tribunal President: Did you receive any military type training from this Taliban support group?

Detainee: No, I did not receive any kind of training. The only thing I did was work with Syed Agha in Kabul. I helped him with cooking and cleaning. In the nighttime, I helped him with guard duty. But I never received any kind of training.

Tribunal President: When you answered question three, you said you stopped with Kamal when the war started; and then in one point you said the fighting was all around you. Who was the war between?

Detainee: It was not a fight. I heard on the radio that those guys, those people were Pashtu speakers. They were going to different villages getting the Pashtu speakers. They were taking stuff from them and from their houses and making them prisoners or in the future using them as prisoners. Those guys - that group - actually were going to different locations and bringing people everyday from different areas and putting them in prison. Those people are Pashtu speakers.

Tribunal President: Who were the Farsi speakers and who were the Pashtu speakers? Are they from different countries? How do we separate them? By country? By religion? Are we talking Taliban verses Northern Alliance? Who are the Pashtu and who are the Farsi?

Detainee: At that time, Ismail Khan and Kamal were Farsi speakers. Not every Pashtu was working for the Taliban Government. Most people were Pashtu speakers in the Taliban Government. Those guys were just capturing the Pashtu speaking people. Just because they were from the north and spoke Farsi. That's why there was fighting between Farsi speakers and Pashtu speakers.

Tribunal President: So the Farsi speakers were from the north. Were they the Northern Alliance?

Detainee: Northern Alliance were Farsi speakers. That difference happened in President Najeeb's Government time period. People were divided on language based on who is Pashtu and who is Farsi speaker. From that time until now, people are fighting. The north is speaking Farsi, and other people from east are speaking Pashtu. They do not like each other.

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Tribunal President: So when you said that the fighting was all around you, you meant the Northern Alliance came into your area to round up the Taliban or the Pashtu speakers?

Detainee: I did not see any Northern Alliance or Massoud or those kinds of people. But Ismail was also Farsi speaker, and I am sure he was helping the Northern Alliance. They were trying to catch the Pashtu speakers.

Tribunal Member: Were Ismail and Kamal from the area where you were assigned and working as a mediator? I think it was Shebrehghan.

Detainee: Shebrehghan is so far from Herat. [Inaudible] in Afghanistan. Ismail Kahn and Kamal, that area of Herat was under them. When I was in the jail, that was the first time I'd seen that area of Herat, under their jail. But Herat is far from Shebrehghan. Shebrehghan was not under their control.

Tribunal Member: I just want to understand, if Kamal was a Farsi speaker and someone who would be hostile to Pashtu speakers, why would you and your relatives go to Kamal to ask for help?

Detainee: I knew Kamal was a Farsi speaker, but my relatives were living in that area and said since they had been living in that area for a long time, they knew Kamal. Kamal was a Farsi speaker, but he could still help me because of my relatives. They knew each other. They took me over there to Kamal. When I went there, Kamal took all my money and everything, and I ended up in jail.

Tribunal Member: Are your relatives Farsi speakers?

Detainee: My relatives are Pashtu speakers. In that area there were a lot of Pashtu speakers. They call it koochi. Koochi means they go in one season to one area, and when the season changes, they move to a different location.

Tribunal Member: When you said you did not voluntarily go to join those forces but were picked by force; by what means or force did they use? Did they threaten you or anything like that?

Detainee: They were in the Government. They would ask that we had to provide one person out of every ten houses. This type of thing has been going on since King Zahir Shah died. When he was the king, he would ask people for service in the military. After that regime ended, the practice continued with President Najeeb, and into Taliban times. We know this is the rule. When a village is told they need so many people per house or from the village, we had to provide those people because they were the Government officials.

Tribunal President: Muhibullah, do you have any other evidence to present?

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Detainee: I answered those five questions. If any one has any other questions, I will be happy to answer those. I do not have any evidence here in Cuba, but I do know people back in my country, Afghanistan, that will tell you I went by force there. I did not volunteer. I did not fight in my life against anyone. You can bring them here. I cannot bring them here. But I can tell you a lot of people back home, and they can tell you all those things about me.

Tribunal President: Okay. You mentioned earlier that you had something more you wanted to say. Was that your statement there?

Detainee: No, but I do have another request. It was just those five questions and I disagreed with the last two questions. They were wrong. I did not know Abdul Ghafar and the Tribunal can ask me questions on it. Regarding the last question, I did not surrender to the Northern Alliance. You surrender when you are fighting and there is somebody behind you or you cannot fight anymore. You surrender yourself. There was no situation like that. That was not the case. So the last two questions, I do not agree with them. I agree with the other three but we already talked about those other three questions.

Tribunal President: Be sure to understand this is your last chance to speak. So if you have a statement, or more statements, they need to come out now.

Detainee: Those five questions, I answered them. If the Tribunal trusts me that I tell them the truth, it is good. If you want me to take an oath and answer questions again, I will say everything I said is true. I can do that to make sure the Tribunal knows I am telling them the truth. **[Offering to take the oath was the request the Detainee referred to earlier, as confirmed by the Personal Representative.]** Other than that, I do have people at home and they can tell you the same thing. That I am innocent. I have never done anything wrong. That is all I can say about those persons. I did not fight Americans or its allies. I did not even know before which side was American when I was living in my village. How could I not like Americans when I did not even know them?

Tribunal President: Okay. Personal Representative, did you discuss the witness process with the Detainee prior to this?

Personal Representative: I discussed the witness process with the Detainee prior to the proceedings.

Detainee: I know the whole process. But I just wanted to make sure that if the Tribunal needed names of people they may want to call, I can give you those names. Otherwise, I answered all those questions truthfully. If you accept my answers, that is fine. If you want me to swear, I can swear also.

Tribunal President: We will not swear you. You have already gone on the record saying you did not want to make a sworn statement. We have proceeded and gotten past that.

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We are not going to re-address that. The witness issue was discussed during the interview process, so we are not going to discuss that now. If you have more to add to your statement, then that is fine. But we understand what has been said so far. We have that on the record and we have taken good notes. We will use this in our deliberations.

Detainee: So the decision will be after the hearing and you will consider everything.

Tribunal President: Yes, and you will hear more about that as we continue on.

Detainee: Okay.

Tribunal President: Personal Representative, do you have any additional evidence to present?

Personal Representative: No, Sir. I have no other evidence to present to the Tribunal.

Tribunal President: Recorder do you have any final questions for the Detainee?

Recorder: No Sir, I do not.


Tribunal President: Any Tribunal Members have any final questions for the Detainee?

Tribunal Members: No, Sir.

Tribunal President: All evidence having been provided to this Tribunal, this concludes this 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, USA  
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