

Summarized Detainee Statement

The Tribunal President began to read the Hearing Instructions to the Detainee.

Detainee: Can I ask questions now?

Tribunal President: Not yet. Later in the Tribunal, there will be opportunities for you to provide information and to ask questions.

Detainee: Could you please mark the previous part about the Tribunal session? (*You have the right to be present at all open sessions of the Tribunal. However, if you become disorderly you will be removed and the Tribunal will continue to hear evidence in your absence.*) I may have a question about that later on.

Tribunal President: Sure. I have some other instructions to review.

The Tribunal President continued to read the hearing instructions and confirmed that the Detainee understood the process.

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: I would like to repeat my request. I actually requested about 20 minutes ago to my Personal Representative that I didn't want any of this Tribunal to be audio taped or video taped.

Tribunal President: This is an administrative process, and it is our process to record this. The process also assures that what we do is accurately done. It's for quality purposes. We also understand, because we have different languages being used, that it is critical that we check our work to make sure that translations and other matters are done accurately. As the Tribunal President, I do not have the authority, nor do I wish, to not record these proceedings. And I remind the Detainee, it is your choice to attend this Tribunal if you so wish. Do you have another question regarding the Tribunal process?

Detainee: Yes.

Tribunal President: Please.

Detainee: Who gave me the guarantee that this audio or video tape won't be used against me?

Tribunal President: There has been no guarantee made.

Detainee: Then how would I be protected?

Tribunal President: I don't know what you're referring to regarding protection. Let me review the purpose of this Tribunal and maybe simplify some of the instructions you were read previously. The three members of this panel are officers independent of any activity regarding your detention. We are not intelligence officers nor are we combat officers. We have been

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tasked by the convening authority to independently review all the matters concerning your detention, with the specific purpose to determine if you have been properly classified as an Enemy Combatant. As part of that review process, the convening authority has provided an opportunity for you to provide information, if you so wish, regarding your detention. As you have been informed, your participation is not required for us to review the government information. The three officers, myself included, have not received any other information about you other than what the Personal Representative has informed me of prior. In your particular case, he has informed me that you wish to attend and other minor matters, such as your name and the language you prefer. The Tribunal procedures will continue shortly, where we will be told the same thing you were told previously regarding the Unclassified Summary of Evidence. So at this point, you know more about what the government thinks about you as a detainee than we do. I hope that was a description that will help you understand your rights and this process. Do you have any further questions?

Detainee: I would like to go back to that point where I had the question before.

Tribunal President: Okay, I will repeat that part of the script for you as information. I stated that you may be present at all open sessions of the Tribunal. Is that the part that you wish to have a question on?

Detainee: No, you can proceed further.

Tribunal President: The next line was, "however if you become disorderly you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence."

Detainee: Yes, I am interested in that point. Could you please repeat that point?

Tribunal President: Let me repeat. If you become disorderly you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence.

Detainee: How would you determine that I am disorderly? I've already asked you a few questions and you told me that you don't have the authority to - or cannot - answer those questions, so who can answer my questions? Who has the authority to answer them? So, are you going to determine that I have been disorderly, just because I've asked these kinds of questions which are actually related to my future?

Tribunal President: Number one, I am responsible for the orderly conduct of these proceedings. As the Tribunal President, that is within my authority and responsibility, and one of my responsibilities is to follow the instructions and guidance provided. For example, one aspect of the guidance provided concerned the conduct of recording these proceedings. I have determined these proceedings will continue, and that we will continue to record these proceedings in accordance with the regulations. I will also answer any reasonable questions from any member of this Tribunal, including the Detainee, regarding the conduct of this hearing. When I find that anyone's conduct, including that of the Detainee, Personal Representative, Recorder, or any Tribunal Member or observer to this hearing, is not in accordance with procedures or efficient or accurate proceedings, I will provide a warning and encouragement for proper conduct so we can

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proceed. At this point of the Tribunal process, I believe we have provided adequate instruction and information regarding what we are doing and how we are going to conduct it. I respect the Detainee's concern regarding the use of the information he provides for other purposes, and I remind the Detainee that he has the option, and the choice is his, to provide statements. That is his choice. I cannot compel him to answer any question. At this point, the proceedings will continue. Shortly, you will have another opportunity to ask other questions and to provide additional information if you so choose. Personal Representative, please provide the Tribunal with the Detainee's Election Form.

The Personal Representative presented the Detainee Election Form (Exhibit D-a) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents.

The Recorder presented Exhibits R-2 and R-3 into evidence.

Tribunal President: Recorder, please provide a summary of the nature of unclassified evidence. But, before you do, I have an instruction for the Detainee first. At this point (speaking to the Detainee) there is no need for a response regarding this Unclassified Summary of Evidence from the Detainee. This is an opportunity for the Recorder to summarize the information for us at this time. Recorder, you may proceed with your summary of the unclassified evidence.

The Recorder gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

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

Tribunal President: Zakirjan Asam, you may now present any evidence you have to the Tribunal. Your Personal Representative may assist you if you wish. Do you wish to make a statement to this Tribunal?

Detainee: What do you mean?

Tribunal President: If you have any comments regarding the unclassified evidence, it would be very helpful for this Tribunal to hear them from you at this time.

Detainee: I've already told my Personal Representative all the comments I have for the summary of evidence. If you want, I can just repeat them.

Tribunal President: Okay, I understand that you've already provided some information to the Personal Representative. It is acceptable to this Tribunal to have the Personal Representative communicate that to us, and any other information you can add to clarify the remarks that he makes would be very helpful. Before we proceed to that point, I would like to ask if you would

like to make these statements under oath? An oath is a promise that the information is the truth. We have a prepared Muslim oath or another oath if you so desire. It is your choice.

Detainee: I cannot say anything before I actually meet some other representatives from some other organizations.

Tribunal President: That is your choice. I respect that. Personal Representative, you may proceed with the comments from your previous interview with the Detainee.

Personal Representative: Okay, but before I get started sir, the Detainee did have a concern about translations. He stated he has had problems with getting very good translators and he is concerned that they have made bad interrogation reports on him in the past.

Tribunal President: Personal Representative, I did note that remark in your election form. We will consider that if we review other interrogation reports, if any are provided to this panel. Before I proceed, I'd like confirmation from the Detainee that he would like the Personal Representative to provide us the information that you discussed earlier. It is your choice. If you don't want us to hear what the Personal Representative discussed with you before, we would respect that.

Detainee: He can reveal everything because there is nothing classified in it.

Tribunal President: Very well.

The Personal Representative began to read each allegation from the Unclassified Summary of Evidence and continued by providing the Detainee's response to each point.

3.a.1. The Detainee traveled from Tajikistan to Afghanistan in the spring of 2001.

Personal Representative: (Reading from his notes of the detainee's initial response) This was true, but he had no idea where he was going and it's a very long story but he was sent by special forces from Kazakhstan by helicopter to Tajikistan, not knowing where he was going.

Detainee: That's why it says the Detainee "traveled". It has to say "removed". The other word has to be deleted from that item. You can replace that with the word "sent" not "traveled".

3.a.2. The Detainee is a member of the Islamic Movement of Uzbekistan (IMU).

Personal Representative: (Reading from his notes of the detainee's initial response) What evidence do we have that is true? This is a false statement. He had not even heard of the IMU until he came here to the camp.

3.a.3. The IMU is listed in the U.S. Department of Homeland Security Terrorist Organizations Reference Guide as having ties with the Taliban.

Personal Representative: (Reading from his notes of the detainee's initial response) There is no comment about this statement because he has no relationship with the IMU.

3.a.4. The Detainee is acquainted with two individuals who hold leadership roles in the IMU.

Personal Representative: (Reading from his notes of the detainee's initial response) In an interrogation he stated that he had heard about the IMU from two people here at Camp Delta. He believes that this may be a problem in the translation.

Detainee: That is possible.

3.a.5. The Detainee was at Mazar-e-Sharif, Afghanistan, when the U.S. bombing campaign began.

Personal Representative: (Reading from his notes of the detainee's initial response) He was not in Mazar-e-Sharif and has never been there. He was not even aware that there was a bombing campaign at Mazar-e-Sharif.

3.a.6. The Detainee has ties to Muslims in the Sink'iang Province of China.

Personal Representative: (Reading from his notes of the detainee's initial response) He has never heard of the place and doesn't know what they are even talking about here.

3.a.7. The Detainee fled to the mountains when the U.S. bombing campaign started.

Personal Representative: (Reading from his notes of the detainee's initial response) He doesn't know anything about this. It's not clear where in the mountains this is referring to, so he can't make a statement because it's not clear enough to him.

Detainee: If you want me to, there is actually a little bit more to it. I can add something to it.

Tribunal President: Please, it would be very helpful.

Detainee: When we were living in that village, people came and told us that there might be some bombing, that there might be a fight in this village and it's going to affect all of the people who live there. They told us that we might want to leave the village and before the fighting started we actually left the village. They told us that the Northern Alliance forces might attack us. We didn't hear anything about the U.S. bombing campaign. We left the village just before the fight.

3.a.8. The Detainee was captured by the Northern Alliance in the mountains.

Personal Representative: (Reading from his notes of the detainee's initial response) The only comment I have on that is that it is not true, with no further detail.

Detainee: If you want me to, I can add something to it too. "Captured" is not the right word here in this item. There was an agreement between us that some people would take us to a place to be safe. During that travel, when they were actually taking us to that place, they had been stopped, and we were held and taken to a different place. I'm thinking there is some agreement between us and I don't know if it's kind of relevant to the Tribunal but if you are interested I can go on and tell my story.

Tribunal President: We may ask questions later. Thank you.

3.a.9. The Detainee was captured a second time and turned over to U.S. forces.

Personal Representative: (Reading from his notes of the detainee's initial response) Again, he was not captured. He was turned over to the U.S. because he could not pay the bribe that was required and so he was sold to the Americans.

Detainee: I wasn't handed over. I was sold. It's also a very long story. I can tell you afterwards.

Tribunal President: If you would like to tell us now you may.

Detainee: There was one person there and he couldn't make any money, and decided to make some money off of me. He told me that if I wanted my freedom that I had to pay some money, otherwise they were going to sell me to the Americans. They were talking about the Americans being willing to buy everybody who was a stranger in that country. They gave me a certain period of time to get money, but I couldn't. That's why they sold me.

Tribunal President: Okay. Personal Representative, is there anything else?

Personal Representative: Yes sir. I actually have a classified document that I would like to enter as an exhibit at a later time on behalf of the Detainee.

Tribunal President: Very well. I will receive that document during the closed session.

Detainee: Are you going to inform me of what kind of documents you are going to reveal later on.

Tribunal President: You need to direct that question to the Personal Representative.

Personal Representative: Yes, sir. (Addressing the Detainee.) We talked about it beforehand. This is the document that raises into question a source of information that is in your case.

Tribunal President: Okay. Zakirjan Asam, does that conclude your statement?

Detainee: I didn't understand the question.

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Tribunal President: Actually, I'm going to have to take a short recess so I can clear my throat. A short five-minute recess if you don't mind.

Detainee: That is fine. May I also use the restroom?

Tribunal President: We will take a recess and have the security give you a rest stop as well. Thank you.

The Tribunal took a short recess.

The Tribunal re-opened after taking a short recess.

Tribunal President: Thank you for the recess, I needed it. I'd like to confirm, Zakirjan Asam, that you have completed your statement.

Detainee: According to those items on the summary of evidence, if you are interested I can of course make a few comments.

Tribunal President: Please do. It's very helpful for us.

Detainee: Which item are you actually interested in?

Tribunal President: We will be proceeding to ask specific questions. But if you have anything that you would like to provide us, you may. I'd like to continue to the questions if you don't have anything else to add.

Detainee: I actually have a few questions.

Tribunal President: Okay, you may ask you questions. By the way, we have water if you need it.

Detainee: Okay, my Personal Representative told me the last time that the Tribunal is just here to find out if I am being properly held as an Enemy Combatant.

Tribunal President: That is correct.

Detainee: He told me that it's not like a big deal, then what is it for?

Tribunal President: Okay, I don't hear a question yet. That doesn't sound like a question, but I think I can clarify.

Detainee: Okay, about ten days ago I met with my Personal Representative and I asked him "what's that all about?" because the whole summary of evidence was not true. It's all false accusations against me. He told me that it's nothing. All the accusations here are false and I didn't even know what to expect or what to prepare for. He told me that it's pretty much nothing and that nobody is accusing you of anything. So what is this all about then?

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Tribunal President: Personal Representative, you would like to comment on that.

Personal Representative: I don't recall making such statements sir. I don't know what he is talking about. I mean if I could...

Detainee: So that means that I'm just lying?

Personal Representative: Maybe he can clarify a little more. I'm not quite sure I understand what he is saying.

Detainee: I asked you: why you were taking me to the Tribunal? What was the reason for that? It says here that this is to determine my enemy combatant status. Now I actually remember that you told me that it's not the legal term for that.

Personal Representative: I did explain to him that's not a legal process, but an administrative review. I believe I indicated that in my Detainee election notes.

Tribunal President: I believe I understand the confusion. The Personal Representative is correct. This is an administrative review. We are not judges and we not trying to determine guilt or innocence. I do recognize that the room and the organization of the people and the procedures do suggest a legal proceeding. That is not the case. As I described earlier, it is meant to provide an efficient and accurate process to review the information regarding your classification here as an Enemy Combatant.

Detainee: Can you comment on your previous reply?

Tribunal President: In what regard?

Detainee: Something you said about some other organizations. You said something about some other organizations.

Tribunal President: I'm not familiar with any other organizations I was talking about.

Detainee: That's okay. You can continue.

Tribunal President: The convening authority is a military person who has been given the authority to review these matters. Possibly that was the organization you were referring to.

Detainee: Yes, that is possible.

Tribunal President: So, again, getting back to your question or comment regarding your discussion with the Personal Representative, he was quite correct that this is an administrative review and that this review would have occurred had you attended or not. This administrative review also required us to provide you with unclassified descriptions of why the government believed you are an Enemy Combatant. The meetings you had with the Personal Representative

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earlier were to provide you that information so you could prepare comments, which you have provided to us today.

Detainee: Okay, can I ask one question?

Tribunal President: Yes, please.

Detainee: Okay, you are giving me a summary of evidence but your summary of evidence must have some facts they are based on. I don't know what you are trying to do here. Everything is false; false accusations. You are trying to lie to yourself. During the interrogations, everything I was telling got mixed up into false accusations against me. So, who gave me the guarantee that you won't do the same thing on the Tribunal?

Tribunal President: I wish there were guarantees in the things that we do. I will remind you of the oath that we took today. We did not guarantee that we would make a perfect decision. We promised to do our best and to use our good judgment. I do respect and understand that you have concern about the accuracy in your previous interviews and I reaffirm our promise that we will consider that when we review other information. I hope you recognize that we are an independent review panel and each of us is responsible for determining classification of "Enemy Combatant" or "Not an Enemy Combatant." I'd like to proceed with questions so we can clarify some of the comments that you made earlier. Personal Representative, do you have questions for the Detainee?

Personal Representative: No sir I do not.

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

Recorder: No sir I do not.

Tribunal President: Do the board members have any questions for the Detainee? Again for the Detainee, it is your option to provide us answers. We cannot compel you to provide us answers, but your information would be helpful.

Tribunal Members' questions:

Q. Where are you from?

A. It doesn't matter.

Q. You answered earlier about being moved from Tajikistan to Afghanistan. You said that you were sent. Could you elaborate on what you mean by that?

A. Okay, I had two choices. I didn't have any documents to stay in that country, so they could have held me in jail with all kinds of false accusations.

Q. So they offered to take you to Afghanistan?

A. No. They told me that they were going to take me to a place where I would be treated very well. They didn't tell me which way they were taking me. They told me that they

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were going to take me to a place where I would be treated right. They were going to provide me with food, a place to live, and everything that a human being needs, and I'd be sent with the other refugees.

Q. Was this because they wanted to get you out of their country, or some other reason?

A. Yes, I think the main reason was because they wanted us out of the country.

Q. Do you know where they left you in Afghanistan?

A. No, I have no idea.

Q. But you did not go to Mazar-e-Sharif?

A. Are you asking me did I know where I was going in Afghanistan, is that your question?

Q. I thought, and I may be wrong, but I thought the Personal Representative said that you have not been in Mazar-e-Sharif.

A. Yes, that is correct. Okay, the first time, they were sending us they didn't tell us exactly where they were sending us. They told us from that place they would take us someplace else.

Q. Did that happen? Did they take you someplace else?

A. It did happen.

Q. Was this the same place where they told you that the fighting was about to start?

A. The place they were sending us was not even in Afghanistan. It was a totally different country. My final place was in Afghanistan, but I didn't know about it.

Q. How many places were you in Afghanistan, just one?

A. You mean in one city, or in one house, or in one village?

Q. Again, as the Tribunal President explained we don't know anything about what has happened to you. So, what I'm trying to figure out is, you went into Afghanistan and what did you do while you were in Afghanistan? How many places did you settle in?

A. When I arrived in Afghanistan, I lived in one place for some period of time and then before the fighting started I left that place and went to the other place.

Q. During this time in Afghanistan, were you ever armed? Did you have a weapon on you?

A. No.

Q. Can you describe the people you were with as refugees?

A. We came to that place with the refugees, but over there they were locals.

Q. But the people you were with were not armed either?

A. No, the majority of those people were women and youngsters.

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Q. Were there others that were sold with you at the time you were handed over to U.S. forces?

A. No, not to Americans. But to Afghans, yes there was one person.

Q. Were they also refugees or members of your group?

A. Okay, in Afghanistan there is some kind of thing in their culture that if someone runs away from one province to another province, and if they have some kind conflict between them, they capture and sell that person to Afghans. It's not like an armed conflict, it's just between villages.

Q. Do you know the names of the other individuals who were sold?

A. No, they sold me to Americans.

Q. How much were you asked to pay for a bribe?

A. 3,000.

Q. 3,000 dollars, 3,000 rupees...?

A. Dollars. (Detainee answered quickly and in English). Because they knew they could sell me to Americans for \$5,000. The way they explained it to me was that because I am Muslim they lowered the price for me.

Q. Can you identify them a little more? Who was it? Was it Northern Alliance? Was it a particular person that was asking you to bribe them?

A. It was actually the people from the two villages. They were actually negotiating between themselves.

Q. Do you remember the villages' names?

A. It was in the Konduz province.

Q. When you were discussing living in the village, and people were saying that it was a good idea to leave, you used the word "we". At least the translator used the word "we". I'm just curious about who "we" were. Who were the group that you were with? Were you referring to refugees?

A. The local population told us that if we wanted to be safe, we'd better leave that place. In Afghanistan, it comes by the word of mouth, and this came from the mosque. That's how we heard, and we left the place.

Q. Also, you mentioned about the two people who were leaders in the IMU. You thought maybe it had to do with some Detainees that you had a discussion with. Let me rephrase that. If my notes are correct, you thought that a discussion with some Detainees here at Guantanamo may have been the reason for item number four, where it referenced knowing some individuals with leadership roles in the IMU. Do you remember who those two Detainees were? Their names or other identification?

A. Yes, I was with those people here at the camp. I met them here at the camp and I talked with them. Just for safety reasons - I don't know how my statement is going to be related to them - I'd better not reveal their identities.

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Q. I respect that and just thought I'd ask.

Tribunal President: Any further questions from the Tribunal panel? (Tribunal members reply non-verbally that they have no other questions.)

Detainee: I thought you were asking me if I had any more questions.

Tribunal President: Actually, Zakirjan Asam, do you have any other evidence to present to this Tribunal?

Detainee: On which item?

Tribunal President: It's an open question, anything that you would like to tell us.

Detainee: I cannot add anything else without knowing in particular what you want to know.

Tribunal President: That is fine and we will proceed.

Detainee: Okay, I actually have a question.

Tribunal President: Okay, final question.

Detainee: Final question?

Tribunal President: Well, one more question please.

Detainee: You are all independent. But you are all from America, right?

Tribunal President: That is correct.

Detainee: How come there is nobody here from the other countries? Some representatives from other countries, companies, or organizations, who will actually observe you, too? How come everybody is from America?

Tribunal President: This is an administrative process for the American government.

Detainee: Okay, this is very interesting. If something goes wrong or somebody says something wrong, will there be any charges against that person?

Tribunal President: Each of us is accountable for our actions and our authorities do review our work. If there errors, they will be addressed on a case-by-case basis. We are to the point in the Tribunal where we will proceed and you will be given a little more information on what will occur after this point. For example if we determine that you should not be classified as an Enemy Combatant. What would occur at that point is that you would be released, if you were improperly classified. That would be corrective action.

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Detainee: It's a little bit too long; I've been here for almost three years.

Tribunal President: Time is important, but I also respect that this is a global conflict with many factors. While I appreciate your time in detention, I also appreciate that it takes time to conduct these affairs. Do you have any more evidence to provide us regarding your classification as an Enemy Combatant?

Detainee: Okay, interesting. I have more questions. Do you do anything against the law here?

Tribunal President: No, this is in accordance with the United States government's laws.

Detainee: If you actually are doing this according to American law, how come you do not reveal your identity?

Tribunal President: That is for security purposes. Our identification is not material to your classification as an Enemy Combatant.

Detainee: There have been some other representatives from outside - civilian representatives - and they told us we don't have to talk to you. How come you still want to proceed with the Tribunals?

Tribunal President: One last time, I'll review it. We will be reviewing your case if [you] attended or not.

Detainee: No, I want to participate.

Tribunal President: You are and I am happy that you are. Those outside organizations that you mentioned are correct. You do not have to participate if you don't wish to.

Detainee: It's not a matter of not being in the Tribunal, it's a matter that you've made so many accusations against me, and it's just unbelievable.

Tribunal President: I understand that. I'd like to continue the proceedings if you have no more questions or no more information regarding the long charges of unclassified evidence.

Detainee: No.

Tribunal President: Thank you. Personal Representative, do you have any further evidence?

Personal Representative: Just as I mentioned before sir, for the closed session.

Tribunal President: I do understand that you have classified information to provide to us later.

The Tribunal President confirmed with the Personal Representative that he had no further evidence.

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The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

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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