

Summarized Unsworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

The Recorder presented Exhibits R-1 and R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

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

The Recorder administered the Muslim oath to the detainee.

The Personal Representative read the allegations to the detainee so that he could respond to them one at a time. The Personal Represent also provided comments from notes taken during his previous meetings with the detainee. The allegations appear in italics, below.

1. The detainee was captured at a checkpoint in the same type vehicle and clothing that was witnessed leaving the site of [an] ambush against U.S. forces.

Detainee: Of course I have clothes. Of course every one has clothes. I was not naked. I don't know about any attack. I just went from my home to go to the city to buy some groceries and some stuff for my house.

Personal Representative: I will also add the detainee told me the type of clothing he was wearing, a lot of people wear it in Afghanistan.

Detainee: Yes.

Personal Representative: That jacket you were wearing, you've had for a number of years?

Detainee: Yes.

Personal Representative: And when you went to/were captured at the checkpoint, you told me that, "why would you go back to the enemy if you were just firing at the enemy?"

Detainee: I ask the Tribunal, if anybody that you fight with, or your enemy you dispute with, and you do something, and you go back to them. If this is true I, accept any decision of yours. You put yourself in my shoes. Just think to yourself, if you have a fight with a person, do you go to them right away?

Personal Representative: I would like to help clarify the contents of our meeting, in that the piece of evidence says he was captured at this checkpoint.

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Detainee: Nothing was with me. I just went to buy some groceries and something for my family.

Personal Representative: The point to help clarify, he stated he was driving voluntarily to go to the city to pick up items and he purposely went through that checkpoint. Which is why he is asking the Tribunal if he were shooting at the forces, why would he then try to go through the checkpoint voluntarily?

Detainee: If I did this thing, I would never go through the checkpoint.

Personal Representative: You told me no one in the car had any guns.

Detainee: Yes.

Personal Representative: There was a taxicab.

Detainee: It was bigger than a taxicab, minivan.

Personal Representative: They originally arrested everybody, but you don't know where the other people went.

Detainee: Yes. Anybody that went to this checkpoint from North, South, East, West. They arrested everybody.

Personal Representative: You were going through the checkpoint and ordered to go to the city of Dara, Afghanistan.

Detainee: Yes. Before I entered the city, at the checkpoint they arrested me, because I want to, tomorrow was Eid – the end of the holy month – the end of Ramadan – I go to buy some groceries, clothes, some candy for my family.

Personal Representative: That was the essence of my notes in relation to item 1.

2. The detainee suffered hearing loss when captured, which was caused by firing weapons.

Detainee: I never lost my hearing. If my hearing was, maybe I have problem. I never asked someone a second or third time. My hearing is perfect. You guys have a doctor. You can see my hearing is normal. I have never taken any medicine, never one tablet. If I did, that would be a problem. You can send me to the doctor to see I have no problem.

Personal Representative: I would like to emphasize that number one, the detainee did say he didn't suffer any hearing loss.

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Detainee: Yes.

Personal Representative: Number two, it says when the detainee was captured he was only sitting in the car when they went to the checkpoint.

Detainee: Yes, there was no purpose to resist. We were going to the city.

3. *The detainee stated he used Klash-n-krons (sic) against U.S. personnel.*

Detainee: That is not true. That is nonsense. One person cannot use one weapon to lose hearing. One person will have to use heavy weapons to lose hearing. How can a person lose hearing from one weapon?

Personal Representative: Another note from our meeting. You told me you were a farmer.

Detainee: Yes.

Personal Representative: What else did you do after the Taliban fell?

Detainee: Two months before I got captured, I bought a used car to do something for my kids.

Tribunal President: Would you like to say anything else?

Detainee: Yes. I would like to ask you about this allegation. Through your mind and your knowledge, is this true or not? It is impossible to have a dispute with some people, or some group, and go directly to them empty handed, to arrest you.

Tribunal President: Is there anything else?

Detainee: I ask again, please use your knowledge and your professional judgment. Think about it. If you think I did this, I am guilty. I accept your decision. If not, I'm here for the past two years away from my family. Please help me.

Tribunal President: The Tribunal will review all of the information provided to it, including the Unclassified Summary of Evidence, your responses and comments to the allegations, and also classified information, before we make our decision. We took an oath to use our best judgment and common sense, and we will make a decision based on that.

Detainee: Is possible to let me know when I will be released or if I will stay behind bars?

Tribunal President: There will be a military officer who will come to you and give you the decision after it is approved in Washington, D.C. I'll further explain the process to you in just a moment. Does that conclude your statement?

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Detainee: The same thing I told you before. Use your knowledge and your professional judgment. If you believe I am guilty of this allegation, from the bottom of my heart, I accept that.

The Tribunal President asks the Personal Representative and the Recorder if they have any additional questions for the detainee. The Personal Representative and the Recorder have no further questions.

Tribunal Members' questions

Q. Where are you from?

A. Afghanistan.

Q. What city or what area were you in when you were captured?

A. Baghran District, the village name Kalanjoi, province Helmand.

Q. The clothes that you were wearing are just regular Afghani clothes? Nothing special?

A. Normal clothes. I have had the same ones for 10 years.

Q. During that time of year, all Afghani men wear the same clothes?

A. Yes, that is during the wintertime when it is cold.

Q. When you were going to the city to buy the items, did you hear the attack? Did you hear nearby there might have been an attack?

A. No, I never heard from a person or gunfire.

Q. Have you had any military training?

A. Never.

Q. You said you were a farmer. What crop did you grow?

A. Wheat and Corn.

Q. Who else were you detained with?

A. This was just a bus to take people to one place. I only know one person on the whole bus.

Q. Were you traveling with that person, or was he someone you just knew?

A. No, he was in the middle of the bus. I just saw him there.

Q. What year were you arrested?

A. I am not sure. I am not that educated. Twenty-two to twenty-three months ago, I was arrested.

Q. Was it the same year the U.S. came to Afghanistan?

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A. No, after that, about one year later.

Q. Do you own any weapons?

A. No.

Q. Did anybody ever give you a Kalashnikov?

A. No. Nobody ever gave me one.

Q. Have you ever used a Kalashnikov?

A. No.

Q. The other people in the minivan, were they arrested?

A. Yes, we all got arrested. They took them, so I don't know where they are.

Q. All men were arrested?

A. Yes.

Q. Do you know if any of them were Taliban?

A. I don't know. I don't think any of them were Taliban.

Q. Did any people in the van have weapons?

A. No.

Detainee: In Afghanistan, a lot of Afghanis, now they capture people and sell them to the Americans. Maybe that is what happened to me.

Tribunal President's questions.

Q. Who arrested you? Who captured you?

A. This place was American and also some Afghanis, special Afghanis from central Afghanistan. We call them Hazara. They look like oriental people. Different tribe and different language. Also different religion.

Q. They were not Muslim?

A. They are Muslim, but they are Shiites. They claim Muslim, they just practice it differently. I refuse to call it Islam.

Q. Can you repeat the name of the Afghan men?

A. Jumandar.

Q. Jumandar? Are they soldiers or fighters?

A. No, he was the old guy I knew on the bus. He was poor and went begging for food or money from house to house.

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Personal Representative: Let me clarify Jumandar was the old man that was walking in the street and then sat in the bus he was the old man the detainee knew.

Tribunal President: Ok.

Q. The Americans were solders?

A. Yes.

Q. The Afghan Hazora were assisting the Americans to arrest people on the bus?

A. I don't remember them. They were with them. They were from every side of the car. They arrested us and they put us in a backyard or somewhere with 60 people. Each car coming to there, everyone was arrested.

Q. This was at the checkpoint?

A. Yes. I don't call them checkpoints. It was just in the middle of nowhere.

Q. Were they stopping every car that was passing this area in the middle of the street?

A. Yes, every car, they stopped them.

Q. Abdul, are you a member of the Taliban or Al Qaida?

A. No.

Q. Do you associate with anybody that is Taliban or Al Qaida?

A. No.

Q. Have you ever fought against the Northern Alliance or the coalition partners?

A. I never, ever shot anybody. I never fought with anybody. I never even offered my house to go join some fight. I never worked for any government, nor has the government give me one bit of food.

Personal Representative: I would like to get some clarification regarding the bus. Were all seven people, did all seven people get on the bus at the same time?

Detainee: No. There were five people before me when I entered the bus. The driver was still driving and in the middle of the way, the old guy, Jumandar, he was walking when he got on.

Personal Representative: The point of emphasis is that the other people were on the bus prior to you getting on it.

Detainee: Yes.

Personal Representative: Did they have the similar color and type of clothing that you wore?

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Detainee: Same clothes everywhere.

Personal Representative: Lastly how far from the city were you were picked up in the bus from where you were at the checkpoint?

Detainee: I am not educated to tell you about the mileage, but it was about one hour.

Tribunal President: Is there anything else that you would like to add?

Detainee: I ask you for your knowledge to think about this question. If you believe that I am an enemy combatant and this allegation is true, I will one hundred percent, I will accept your decision as an enemy combatant. Otherwise, please help me. My hearing loss is a big lie, I understand every word of yours, and I didn't ask a second question. I heard everything clearly. Think about this thing and think of the whole thing. Also, it is impossible for me to lose my hearing with just one Kalashnikov. It is like you cannot write with two pens in your hands.

Tribunal President: Let me clarify what you are saying. Are you saying that the allegation says you had two weapons?

Detainee: They told me I used heavy weapons to lose my hearing. You cannot lose your hearing with a Kalashnikov. That means you used one heavy weapon, then you used a Kalashnikov.

Personal Representative uses sound effects to differentiate the sounds made by a Kalashnikov and a heavy machine gun.

Detainee: Yes, again he is right, and also this is the truth and justice. You have time, you have time to send me to any doctor to check my hearing. You will see the result.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explains the remainder of the Tribunal process to the detainee 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, U.S. Army
Tribunal President

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