

Summarized Sworn Detainee Statement

The Tribunal President read the Tribunal instructions to the Detainee, and verified that the Detainee understood the process and had no questions. The Tribunal President confirmed the Detainee had requested two Witnesses, but only one was available. The Recorder summarized the nature of the evidence to the Tribunal.

Tribunal President: (to the Detainee) You may now present any evidence or respond to the statements on the unclassified summary. You have the assistance of your Personal Representative in doing so. Do you want to respond to the unclassified summary, or make a statement?

Detainee: Yes, Miss. If you give me time, I have answers for every charge.

Tribunal President: Would you like to make your statement under a Muslim oath?

Detainee: Swearing is a big deal in my religion; things that I know I will swear to and things I don't know, I won't swear to.

The Recorder then administered the Muslim oath.

The Personal Representative then presented each item of the unclassified summary individually at the Tribunal President's request.

Personal Representative: (3-1) *A site was investigated after seeing mirror flashing and possible ditching of weapons from a position where enemy personnel were previously seen with a rocket-propelled grenade (RPG).*

Detainee: First, Miss, I did not have a mirror; I had a chewing tobacco can, which had a mirror on it. I did not have an RPG or any other weapon. If someone saw or caught me with a weapon, that would be a different case. If you had aircraft circling around and you had your forces in the area, moving of weapons is not possible. I was caught by your soldiers in the middle of the day. I did not have a mirror with me except my chewing tobacco. I did not have weapons. If I did, I wouldn't be walking freely. I was driving a tractor and working for someone else. Your soldiers captured me and did not tell me or accuse me of something. I am a poor person, and even if you say I'm the leader of the Taliban, I cannot tell you now. They captured me and took me to the well and accused me of dropping the RPG into the well. The well was 7 meters deep; you could see the water inside the well. Or they could take the RPG out or saw the weapon with me. Basically, I am a poor person and someone else's servant. I was not wearing a green jacket at the time of my arrest. I was a poor person and I could not afford one. This is my statement. If you want to write me down now as an enemy combatant or not, it's up to you.

Tribunal President: (to the Detainee) Would you like to answer question number two?

Detainee: Yes, Miss.

Personal Representative: *(3-2) the Detainee was captured, along with his nephew in what appeared to be a hasty fighting position identified as the location of the flashing mirror and RPG sighting on February 10, 2003.*

Detainee: At least you could ask your forces in the area if somebody fired at you or hurt you, at least you could ask. If somebody else wrongly accused me, please bring them so I could face them. I did not have a weapon, and I did not fight against you.

Personal Representative: *(3-3) The Detainee admitted to being part of an ambush against U.S. forces.*

Detainee: I did not take part in any attacks. If someone says this, please bring them in so he could face me.

Personal Representative: *(3-4) The Detainee admitted to throwing his weapons down a well.*

Detainee: I was not captured by the well. I was captured far away from the well, then they (soldiers) brought me to the well. It was 2 meters by 2 meters round, and 6 meters deep. If they accuse me, they should go to the well and take it out, or have me take it out. This is my question, if it's daytime or light, could someone throw it in the well with the guards and helicopters searching?

Personal Representative: *(3-5) The Detainee, at the time of his capture, was wearing an olive drab (OD) green jacket, also commonly seen on Taliban fighters in the area.*

Detainee: No, Miss. I did not have a green jacket on me. It was blackish brown coat with lots of pockets to carry the stuff I had. I was not wearing a green jacket. I bought it from a shopkeeper for 100,000 Rubies. I wish I could find him and bring him here to testify.

Personal Representative: *(3-6) The Detainee's nephew admitted to wearing an OD green jacket.*

Detainee: Yes, he (the nephew) had a green jacket.

Tribunal President: (to the Detainee) Do you have anything else you wish to add to these allegations? You could make a statement if you like.

Detainee: No, Miss. I have nothing else to tell you except that I am a poor person caught by your soldiers. I do not have a weapon, and was not fighting. If you capture ordinary Afghans, that is a different subject. I previously stated I was a poor person driving a

tractor for someone else. If someone is accusing me of these charges, then that is a different case.

Personal Representative questions of Detainee

Q: Did you ever open your tobacco container or did your nephew open his mirror that day?

A: No, Sir. I did not take my chewing tobacco can outside, and that day I did not use chewing tobacco.

Q: How far from your village were you when you were arrested?

A: Approximately, I don't know exactly, about 50-70 or 100 meters, but I was not too far from my house when I was arrested. Not in kilometers, but meters.

Q: Describe where you were sitting when you were arrested.

A: I left my home and went to small garden and prayed. At that time, my nephew arrived. We wanted to go to the bazaar. When we were walking, your cars or the convoy came by, they weren't far from us; about to the outside of this building. We sat down and they came and arrested us.

Q: How far away was the well they took you to?

A: Approximately 30 or 50 meters away from the well.

Recorder questions of Detainee

Q: What time did you leave for the bazaar?

A: I did not go to the bazaar; I do not understand your question.

Q: You mentioned you were going to the bazaar with your nephew, what time did you leave?

A: I did not look at my watch, but it was after the midday prayer; around 1:00 or 2:00 and it was wintertime. It was around 1 to 2 p.m.

Q: How far away is the bazaar?

A: If you walk, two hours; if you drive, around 20-45 minutes.

Q: Did you bring your prayer mat with you?

A: If you mean a prayer mat, meaning that we pray on it, I did not have it.

Tribunal Member's questions of Detainee

Q: Are you part of the Taliban?

A: No, Sir. I am a poor person and was not a member of the Taliban.

Q: Have you ever fought with the Taliban?

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A: No, Sir. I did not fight with the Taliban. I was somebody else's servant.

Q: Have you ever fought on anyone's behalf?

A: No, Sir.

Q: Have you had training on how to use the RPG?

A: No, Sir. I didn't know what the RPG was until I came here and heard it from you.

Q: What is the name of the village you live in?

A: Leijhay.

Q: What part of the country is that?

A: It is near the district of Bagram; it is the north side of the district of Bagram.

Q: Why do you think the soldiers identified you as the person that dropped the weapons down the well?

A: Probably they did not tell me that; if they told me, they would tell me to take it out or they could take it out; for example, if I tell you there is an aircraft outside, and you go outside and the aircraft is not there.

Q: Was someone else in the immediate area involved with an RPG?

A: No, Sir. Nobody had, and I don't know about that.

Q: Do you use mirrors regularly for signaling?

A: No, Sir. I did not signal anybody. I had my chewing tobacco can, as everybody does. I did not signal anybody.

Q: My question is, though, do people in your area use mirror signals to communicate with each other?

A: No, Sir. We don't use mirrors to signal each other; we are poor people working for someone else, and I have lots of orphans to take care of. I was busy; we did not use mirrors as a signal.

Q: Did the Taliban fighters use mirrors as signals?

A: No, Sir. I cannot lie to you; I did not see if they use them or not.

Q: Did your nephew have a mirror with him?

A: Yes, Sir. He had a mirror.

Q: Did he use it at all?

A: No, Sir. He was with me; he was arrested with me. At that time, he did not use his mirror.

Q: Did your nephew have an RPG, or know how to use an RPG?

A: I know he did not have an RPG, but I don't know if he knows how to use it or not.

Q: Do you know where your nephew got the green jacket?

A: No, Sir. I don't know where he got it. He had a green jacket, but it was very old; anybody with money could buy it.

Q: Do they sell these types of jackets at the bazaar?

A: Yes, Sir. In Kandahar, in our district, there are lots of them in the market. They come from Pakistan or Iran; the price is about 800 or 900,000 Rubies. Anybody who has money can go and buy it.

The Tribunal Member stated he had no more questions, and the Detainee stated the following.

Detainee: Could I add one more thing? About the mirrors, Sir - they are all over the marketplace and the bazaars. The people of Afghanistan use the small mirrors to trim their mustaches, and they always carry them because the homes have no mirrors. This is why everyone carries them. Kids, ladies and men have these kinds of mirrors. This is the last of my statement; now it is up to you.

Tribunal President questions of Detainee

Q: How did you support yourself in Afghanistan?

A: Six months prior to my capture, I was driving a tractor for somebody.

Q: And then after the driving of the tractor?

A: Yes, Miss. I was working under an individual as a mechanic or mechanic's helper.

Q: Who did you work for when you were driving the tractor?

A: The tractor belonged to Hajies Halom; I was working for him.

Q: What did you move around on the tractor?

A: I was working on the land; planting stuff with the tractor.

Q: Were there other people captured with you besides you and your nephew?

A: Lots of people were captured. When they took us to our district, there were lots of people they let go. They let all of them go except four people they brought here from our village.

Q: Were the other four people also accused of the ambush?

A: I don't know. I don't have that information. You could probably ask the interrogators; we were villagers.

Q: Did you know any of the people that were captured?

A: Yes, Miss. You could ask your soldiers; there was no fighting in the area of our village when we were arrested. A few times, the Americans came to the area, and no one bothered them because we were happy they were there. They were rebuilding us; we did not have anything; we did not even have trees around.

Q: Were the people arrested with you anywhere near you?

A: No, Miss. My nephew and I were captured together, and the others were caught somewhere else.

Q: Does the February 10, 2003 date, is that the date you were arrested?

A: Miss, I don't know dates. It was daytime when I was captured, but it's been a long time that I have been here.

Q: You indicated there was no fighting going on during that day.

A: No, Miss. Our district is large and rugged and mountainous. In the whole province, if somebody fought the Americans, then am I guilty?

Q: That doesn't exactly answer the question. You said there wasn't any fighting going on that day.

A: Not that day; no fighting in the area.

Q: Was there any fighting going on before you were captured?

A: No, Miss; no, Miss.

Q: Can you describe the area where you were captured?

A: That's my area, and the name is Leijhay; even if I describe the area, how would you know?

Q: Was it a mountainous area?

A: No, Miss. To the left of us are mountains, and to the right is a dam. We were caught in a flood ground.

Q: Is the area a town or village or farm area?

A: Our village is Leijhay; in our village there is lots of farmland, and our district is far away from us.

Q: Were the Americans there within the week or during that time you were captured, or were they just rolling through the area?

A: I don't have that information if they spent a week or 2 or 3 days. The day they came, they arrested me and took me somewhere else; I don't know.

The Tribunal President then mentioned that the Witness would be brought in shortly, and the Detainee stated the following:

Detainee: Very good, Miss. Before you bring in my Witness, I want to tell you our district is a very large district. You could ask all the people, all of the villagers, that all of these accusations are wrong. If one of them is true, I've been here for the past two years, and you can keep me here for life. You could ask my villagers; all of the people know me. You could ask them if I do these kinds of things, or what I was doing there and they'd be able to tell you. I don't have anything else to say.

At this time, the Tribunal President explained the procedure for Witnesses to the Detainee, and verified the Detainee had no more questions. After a brief recess, the Witness was brought in and the Tribunal President explained the process to the Witness and made it clear that this is was not his Tribunal, he was there as a Witness for another Detainee, and the Detainee may question him as well. After he acknowledged he understood, the Tribunal President asked the Personal Representative if he had any questions for the Witness?

Personal Representative Questions of Witness

Q: Could you tell the Tribunal what your uncle was doing the morning of his capture?
A: I left home in the early morning to go to the bazaar; at that time, my uncle followed me to buy oil and a filter for the tractor. It was the night of the Eid; tomorrow would be the Eid. The three days of the Eid, all the stores are closed, which is why we wanted to go to the store. Me and my uncle were going on our way on the middle of the road, when six soldier cars in a convoy came up behind us. We let them pass; we went to the side of the road. They stopped by us and arrested both of us.

Q: Do you know if your uncle ever left his home previous to going to the bazaar with you that day?

A: No, Sir. I came out, and at the same time my uncle came out. We were walking when we were captured.

Q: Why do you carry a mirror?

A: Still we have mirrors here. It is the word of the prophet to trim our mustaches and beards with it.

Recorder Questions of Witness

Q: What time does the bazaar close?

A: After evening prayers the stores closed in the bazaar.

Q: What time were the evening prayers that night?

A: They have different times for different days; sometimes at 4:30, sometimes at 4:00.

Tribunal Member questions of Witness

Q: What job does your uncle do?

A: My uncle drives a tractor for somebody else, he works on the land to feed his kids.

Q: Were either you or your uncle wearing a green jacket the day you were captured?

A: Yes, I had a green jacket on me.

Q: Where did you get your green jacket?

A: I bought it from the bazaar.

Q: Have you ever used an RPG?

A: No.

Q: Ever seen one?

A: No Sir, I have not seen one.

Q: Ever?

A: I did not see.

Q: Was there any fighting in the area on that day you were captured?

A: No.

Q: Do you have any idea these soldiers just picked you two up?

A: This is my question, because they came 3 or 4 times that day prior to when they captured me. I don't know why they captured me.

Tribunal President questions of witness

Q: What time of day were you arrested?

A: My watch was broken in my pocket, but it was approximately 1:00 in the afternoon.

Q: Can you describe the area where you were arrested? Was it a village, a city or a farm area?

A: No, Miss. There is no city in our area; all of it is farmland. We grow everything on top of the farmland. We were arrested in that area.

Q: Had you already been to the market or bazaar that day?

A: No, Miss; we did not reach the bazaar. We wanted to go to the bazaar when we were arrested.

Q: Were there other people arrested with you?

A: In the area we were caught was just my uncle and me. When they took us to a compound, I saw lots of villagers that were captured there.

Q: So if I understand correctly, you two were by yourselves?

A: Yes.

Q: And were you on the road at the time?

A: We were on top of the road, but when we saw them approaching, we gave them the right-of-way; we went about 7-8 steps to the right side of the road.

Q: Do you know if your uncle has or had any weapons?

A: No.

Q: Do people in your town carry weapons for protection?

A: No.

Detainee questions of the witness

Q: Do you know me?

A: Yes.

Q: Do you know where I am from?

A: From Leijhay.

Q: What is my job?

A: You drive a tractor for somebody else so you can feed your kids.

Q: Did I have a mirror so I could signal someone with it?

A: No.

Q: Did I have a rocket launcher to throw in the well?

A: No.

Q: Did I have a plan to attack the Americans?

A: No. You are a poor person; you did not want to attack the Americans.

Q: On that day we were captured, did somebody attack the Americans?

A: No.

Tribunal President questions of witness

Q: Do you know if your uncle belongs to the Taliban?

A: No.

Q: Has he ever been supported by the Taliban or al Qaida?

A: No

Additional questions of witness by Tribunal Members

Q: What crop does your uncle farm?

A: People grow wheat and corn; he is a tractor driver, and he gets the land ready for planting.

Q: Do they grow any poppy in the area?

A: No.

Personal Representative question of witness

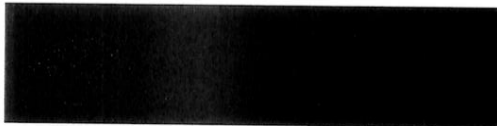
Q: Was your uncle ever aware of a plan of an ambush?

A: No.

The Tribunal President then took a brief recess to allow the Witness to be removed from the room. When the Tribunal returned, the Tribunal President confirmed the Detainee had no more information to present. The Tribunal President then read 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.



Colonel, United States Army
Tribunal President