Summarized Unsworn Detainee Statement

The Tribunal President read the Hearing Instructions to the Detainee. The Detainee said he understood the process. The unclassified summary of evidence was read in full to the Tribunal by the Recorder. After the evidence was read, the Detainee interrupted the proceedings and stated the following:

Detainee: Please tell me when it's my turn to speak, because I don't know what is going on here.

Tribunal President: We will tell you. I'll address you by name and the translator will let you know when it is your turn.

Detainee: Sure, no problem. Any time my name is mentioned, I will start speaking.

The Tribunal President then asked the Detainee if he would like to take the Muslim oath.

Detainee: Anything to make you believe, I will do that. If it's your wishes for me to swear, I will do so.

Tribunal President: It's up to you if you wish to. We will accept your oral statement either way.

Detainee: Anything to make you believe me. I will do it that way. I will present you with my verbal statement.

Tribunal President: Either way will be accepted.

Detainee: If you tell me to swear, I will swear. If you tell me not to swear, I will not swear. I have the witnesses all over my province.

Tribunal President: We can't make that selection for you, so why don't we just proceed.

Detainee: Please start.

Personal Representative: When we met, we discussed that I would read these first, and then you could say more, do you still wish to do it that way?

Detainee: What do you mean? What should I say?

Personal Representative: When we met, I wrote notes down. Do you want me to read these first, then say more if you want to?

Detainee: If you want to read it, read it. I know what I told you, so I could say the same thing.

Personal Representative: OK. I'm going to read it, and ask you if you want to say more. On 3.a-1, it states that on 22 February 2003, you were involved in a firefight with United States Special Forces. The detainee's written response to the Personal Representative (as read by the Personal Representative) was as follows:

It was nighttime. I heard firing about midnight, or between 3 and 4 a.m. Where I lived, there was lots of fighting going on all the time between each other, and lots of thieves in the area that robbed people's homes at night and killed the owner. I was sleeping when I woke up because of the fighting. I came out of my bedroom to the center of the courtyard. I heard firing. This time I was scared and I thought some thieves were coming.

Personal Representative: (3.a-2) Regarding that the detainee admitted to firing his weapon in the firefight (the Detainee then interrupted).

Detainee: I didn't say I fired my weapon in a firefight.

Personal Representative: That is the second accusation, and I'm going to explaining it. He (the Detainee) stated the following (in previous discussion):

I fired three times in the air to scare the burglars away. Then after that, flares went up into the sky and lit up the sky. When I saw the light, I stopped firing. I was able to see muzzle fire from weapons. So I stood in the courtyard for 5-10 minutes, and did not move. Then aircraft came and I understood then that it was not a burglar. The airplanes came a second time and dropped a bomb, and I was injured. After that, I don't know what happened. I never worked with the Taliban, or talked with them or ate with them. I was a bus driver.

Personal Representative: (3.a-3) Detainee knew that he was fighting soldiers during the firefight. He (Detainee) said to me (from notes previously gathered):

I never saw soldiers to fire at. I never knew which way the firing was coming from. The only time I fired was three shots into the air when I came out of my bedroom.

Personal Representative: (3.a-4) During search of compound for weapons cache, detainee fired with intent to kill or harm U.S. forces. We talked and the detainee had stated the following:

I never fired during any search. After the bombing, I was injured and laid there until morning. My dad and mom took me from the courtyard to a room in my house. My younger brother was outside the house and came back in to tell my father that lots of cars were coming. My father said, "No problem, it's good they are coming." When the

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American Army came inside, they helped him to control the blood, and took me to a hospital. My father told me the Army was coming there to help him.

Personal Representative (to the Detainee): Would you like to add more?

Detainee: I have one question to ask the American forces. How did you know where I lived and how did you find me? Who told you the wrong accusation that you came to my house?

Tribunal President: The only information we have about you at this point is the unclassified summary.

Detainee: My house is in the middle of all the other houses. From my house, you cannot fire upon anyone. When I thought the thieves were coming to steal from my house, I went outside and fired my weapon three times in the air.

Personal Representative: (3.a-5) I'll go on to the last two accusations. This one says the Detainee received wounds consistent with grenade injuries.

Detainee: All I can say is I was not wounded by a hand grenade. The aircraft threw a bomb, and one could see it broke all the windows in my house, and everybody knows about that.

Personal Representative (to the Tribunal): That is what he said to me. He only remembers being injured from the bomb in the courtyard.

Detainee: Yes. The aircraft threw a bomb.

Personal Representative: (3.a-6) The last accusation says the detainee knew that the compound to be searched belonged to a member of the Taliban.

Detainee: Nobody could tell me that the place I was arrested belonged to the Taliban. No Taliban checkpoints existed in my area. Everybody in my area knows we have a large compound. There is no Taliban around us.

Personal Representative (to the Tribunal): He also stated that he has lived there all his life and has never left there.

Detainee: I want to add that even my father was born in the same compound, in the same house.

Personal Representative: One last statement that he said to me was (from notes):

If I was fighting Americans, why did they not take me that night? My dad got them, the Americans, and brought them to me because I was injured.

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Detainee: All I want to add is, why when I was injured did they not capture me? Why did they go back to the bazaar or marketplace, then come back the next morning to capture me at my house? If I did something wrong, they should've captured me that night.

Personal Representative: That's the end of the accusations. Are there any more statements you'd like to make?

Detainee: I want to add that we were not the Taliban, and didn't need to be afraid of Americans. The Americans did not know where I lived to arrest me; my father went to them (Americans) to bring them over. My father is still writing in the letters that the Americans took me because I was injured, and when you are better, they will release me. He is still saying this. (The Detainee had letters with him) I wrote him to tell him that my leg is better and am not in hospital, and I'm ready to come home. My father wrote and asked, why then if you are not in the hospital and you're wounds are better are you still in jail? My father said the Americans promised me they would let you go; why aren't you coming home?

The Personal Representative then presented the Detainee's father's letters to the Tribunal President.

Tribunal President: Had you previously talked to your Personal Representative about witnesses?

Detainee: I spoke to him. He knows and I told him I would swear when he asked me about witnesses. The whole province knows me, that I was a driver and not working with the Taliban whatsoever. I am very happy to be in the Tribunal, because for the past one-and-a-half years, nobody asked me any questions. My father keeps writing me asking me why I am not coming home. What should I write him?

Tribunal President: I'm sure it would be difficult to answer that for you. The people that knew you that could say you weren't Taliban would not be relevant. Right now we have no accusation against you that says you were Taliban. Would that be all right if we asked you some questions?

Detainee: I am ready to answer all of your questions. If any individual comes forward and tells you that I was a member of the Taliban, then I am wrong and I told you lies. I was not a member of the Taliban.

Tribunal President: Thank you.

The Tribunal President then asked the Personal Representative if he had any questions for the Detainee. The Personal Representative stated he would, and asked the Detainee the following questions:

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Q: Could you explain what kind of driver you were?

A: I had a big bus to drive, and the bus was next to my compound when the Americans came. They saw it. I was driving that bus for a long time. Recently, before my capture, I bought a station wagon.

Q: Do you have any idea why the Americans came to your village?

A: You should answer that question because we were against the Taliban. During the Taliban rule, we could not play tapes or cassettes. After that, we could play tapes. We were happy. They (Americans) came to build our roads.

Q: Did you ever see any uniformed fighters or any fighters firing at you in your direction?

A: I did not see any soldiers with uniforms. I thought that it was thieves. When I heard the gunfight, I went outside and fired my weapon towards the air. I did not know they were Americans, or that they belonged to any government. I did not see anybody.

The Personal Representative then stated he had no further questions. The Tribunal President then asked the Recorder if he had any further questions. The Tribunal President then asked if any Tribunal Members had questions for the Detainee. At this time, one Tribunal Member wished to address the Detainee.

Tribunal Member Questions

Tribunal Member: (to the Personal Representative) Before I address this gentleman, I would like for him (the Detainee) to give us a sketch; is there a particular pen they are allowed to use?

The Detainee then interrupted and addressed the Tribunal Member

Detainee: I don't know how to write even my name, how could I draw something?

Tribunal Member: (to Detainee) And just so you know I'm not interested in any words, I'm more interested in a stick picture or sketch of your compound.

Detainee: I could tell you my house was in the middle, and surrounded by different homes. You could have the pen and draw it. You could go to my area and see the compound to see if I'm telling the truth or not. You could go to my area and see. This is not a lie; this is not the time to lie, I would not lie.

The Recorder then excused himself momentarily to locate the supplies needed for the sketch. The Tribunal Member announced that the Tribunal would wait until the

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Recorder returned with the materials. Upon the Recorder's return, the Tribunal Member announced that the Detainee indicated he would be more comfortable describing the layout of his compound (for the sketch) to the Tribunal Member. At that time, the Tribunal Member approached the Detainee with the blank paper and pen for the drawing. The Tribunal Member knelt in front of the Detainee and took instructions from him describing his compound. The paper was also placed in front of the Detainee so he could draw directly on it to clarify the layout of the area he was from. This layout included the Detainee's home, surrounding homes, the courtyard, a garden and area roads and rivers.

Detainee: When you go to my house, you will see that it is surrounded by other houses. This is the front of my house (referring to drawing), and you can't see anything because these houses block our view.

Tribunal Member: I am going to place the letter "D" for the Detainee's house in the middle of the circle (on the drawing).

Detainee: This area is a big garden. We have a pomegranate garden.

Tribunal Member: (still knelt in front of Detaince) Then I'll write garden here. When you say garden, what kinds of things are in this area?

Detainee: We have huge garden. There are grapes, plants, and pomegranate trees.

Tribunal Member: Is there a road anywhere near by (referring to the drawing)?

Detainee: The road is all the way up in front of our house.

The Tribunal Member continued to take direction from the Detainee as to the layout of the area, and applied it to the sketch. The Tribunal Member remained directly in front of the Detainee, and referring the Detainee's attention to the sketch, asked the following:

Tribunal Member: When you stepped out into the courtyard, where did you step out to? Put a dot where you stepped out to.

Detainee: Just (place a dot) in the middle of it. We have lots of rooms in our compound. I left the room, I went to the courtyard and I stood in the middle of it.

Tribunal Member: In the middle of this circle, here, that I'm pointing at now?

Detainee: The dot is where I was standing.

Personal Representative: His house has a specific courtyard.

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Detainee: You did not see the compounds in Afghanistan? Our house was 40 meters by 40 meters. For example, my compound has rooms with 6-7 meter tall walls. We built a huge door and 6, 7 or 8 rooms inside.

Tribunal Member: I think I understand the layout of the compound. Would the Personal Representative mind if we submitted this exhibit (drawing; labeled D-C) on the Personal Representative or Detainee's behalf?

Detainee: It's good you understand about my house. When you stand in the middle of the compound, the walls are too tall to see outside.

Tribunal Member: I understand that. I just have a few more questions for you.

Detainee: Please, I'm ready for your questions.

Tribunal Member: At your house, who did you live with?

Detainee: My father and my mother.

Tribunal Member: Anybody else?

Detainee: My mother, father, my baby brothers, chickens and cows all live together in my compound.

Tribunal Member: How old are your brothers?

Detainee: I swear I don't know about my own age. We are five brothers.

Tribunal Member: Are you the oldest?

Detainee: Yes.

Tribunal Member: You don't know what your age is?

Detainee: No.

Tribunal Member: What type of weapon did you use?

Detainee: Everybody has a machine gun, or Kalashnikov in their home.

Tribunal Member: How many Kalashnikovs do you have in your home?

Detainee: I had one.

Tribunal Member: Did anybody else in your house have a Kalashnikov?

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Detainee: No, we had only one.

Tribunal Member: Did you have any other weapons in your house?

Detainee: I did not need to have any other weapons. The reason this was kept was to defend our home from thieves, or someone that might come to take our ladies away.

Tribunal Member: I just want to clarify. So there weren't any other weapons, just the one Kalashnikov?

Detainee: Yes.

Tribunal Member: Are you the member of any political party?

Detainee: No, no. I don't know about any political group. Everyone knows me as a driver.

Tribunal Member: Have you ever been a part of the military?

Detainee: No, no, no. I never went to the military. I was a bus driver; I was driving my bus.

Tribunal Member: Ever had any weapons training at all?

Detainee: Nobody trained me but everybody has a machine gun and knows how to use it.

Tribunal Member: Do you have any enemies?

Detainee: I don't have an obvious enemy. In Afghanistan, everyone has enemies. This letter (from my father) indicates thieves came and stole my station wagon. When I bought the station wagon, I was taking passengers from one point to the other. My father's letter makes reference to a time when my car was stolen at gunpoint, and the thieves took me out of the car and took it away from me. You could see the exhibit here (letters) that my father makes reference to the time my station wagon was stolen. He (the father) says things are that bad (still).

Tribunal Member: When did that happen in relation to your arrest?

Detainee: I have been here almost two years, so it was the Ramadan before that. It was two Ramadan's prior. This is the third Ramadan (now). I spent two Ramadan here.

Tribunal Member: Describe for us the gunfire that you heard.

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Detainee: Basically I left my room to the middle of the compound when I heard the gun's firing. I did not know from which direction it was coming from. When I heard the gun firing, I thought they were thieves, so I fired three rounds into the air. After that, I saw two big lights (flares), and thought to myself, what is going on.

Tribunal Member: Could you tell the direction the gunfire was coming from?

Detainee: I don't know. When I left my room to go into the middle of the compound, I did not know from which direction it was coming from. I was standing at the same point for 5-10 minutes. After that, I saw two big lights on top of my house. Then I decided that no, these are not thieves; this is something else. The thieves cannot have this (flares). I was standing for 5-10 minutes and saw an aircraft pass my house first. Then when it returned and threw a bomb on me while I was standing there.

Tribunal Member: One thing you testified about I'm a little confused about. You said you lived in this location your whole life. You also mentioned there was some Taliban near where you were living. Is that correct?

Detainee: I did not see (the Taliban). If you can prove to me that a Taliban or member of the Taliban crossed my house or area then I am guilty.

Tribunal Member: Did you ever tell anybody that members of Taliban lived in your area?

Detainee: I am responsible for my own house and my own neighborhood. I did not see any Taliban members come to my neighborhood, but I'm not responsible for the village. Probably the Taliban came to the village; I don't know. I'm not responsible for the village; I don't know if the Taliban came to the village or not.

Tribunal Member: Was anybody else arrested with you?

Detainee: I don't know; I was wounded. I could not even see. I don't think somebody else was arrested.

Tribunal Member: Were you unconscious?

Detainee: I could not see or speak, but I could hear the background noises. I could hear my brother say there were cars coming.

Tribunal Member: Was it dark?

Detainee: No. I told you it was the next morning. A big piece of shrapnel hit my head; I don't know. It took a piece of bone out of my head. I also have a wound under my right eye you can see. My eye was blinded because I could not see; my eyes were closed.

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Tribunal Member: Both eyes?

Detainee: One piece of shrapnel wounded me in the left side of my head; the other one wounded me under my right eye. Both were bloody and I could not see anything. My cheekbone was broken, then my leg and then my body (were hurt). That was too much to talk about.

Tribunal Member: What did your father do for a job?

Detainee: At one point he was a shopkeeper, but he does not have the shop any more.

Tribunal Member: Was he Taliban?

Detainee: No, no. If anybody tells you that he was a Taliban member, then I am guilty. The Taliban did not even cross my house or the surrounding compound.

Tribunal Member: Thank you for answering my questions.

At this time, the Tribunal Member then allowed the other Tribunal Member to question the Detainee,

Tribunal Member: Is that letter from your father?

Detainee: All of them are from my father.

Tribunal Member: What does that letter right there say?

Detainee: My father wrote in the letter that the Americans promised him that they were going to take me to the hospital in order for my wounds to get better. They (the Americans) promised they would release me. My father is writing asking why I wasn't released. They promised him.

The translator then read a passage directly from the Detainee's father's letter.

Translator (from Detainee's father's letter): The Americans told me you don't have any problem, so why aren't you released? You try your best to cooperate, and I will send letters to the Americans asking them why you are not released. It indicates in the letter that they took you to heal your wounds.

Detainee: Please read the whole letter.

Tribunal Member: Earlier when we asked you to draw a picture, you stated you could not read or write, so how could you draw?

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Detainee: I told you that they put me through Pashtu class here over the past two years. I learned how to write and I learned how to read.

Tribunal Member: That's not what you told us earlier when we asked. You said you could not read or write. The reason I bring this up is that I would like for you to tell us the truth, so we could ask questions.

Detainee: I told you that they put me through school here. All I know is how to read a little bit, and how to write my name. When the gentleman asked me to draw, I drew circles of my house.

Tribunal Member: Did you hear a lot of gunfire before you fired your gun?

Detainee: I was asleep and was awakened by the sound of the gunfight. Then I went to the compound and heard another round of firing. At that point, I fired three rounds into the air.

Tribunal Member: How many guns did it sound like shooting?

Detainee: When I was awakened by the sound of the guns, I didn't see which direction they were coming from or the weapons that they were using. At that point, I was afraid. I was scared. When I heard the second round of gunfire, I took my weapon and fired three rounds into the air. After that, I saw two flares, then the aircraft on top of my house. After that, I did not see. I do not know what happened.

Tribunal Member: I understand that. If you thought they were thieves, who did you think they were firing at?

Detainee: I don't know who they were firing towards. When I came outside I thought if they were thieves, they'd run away when I fired my weapon. I'm not lying to you. You could go to my area and see that you couldn't fire at anyone from inside the compound. You could ask the people about me. My father will take you to my compound and you could see the bomb crater in the middle of the courtyard.

Tribunal Member: Did you see anyone in the compound firing at what you thought were thieves?

Detainee: No, no. Nobody else was in the middle of the compound. I confess that I fired three rounds into the air. I confess that. I'm not against the Americans and I am not lying. I was not working for any government or against any government. I told you I fired my weapon, and that is what I confessed to.

Tribunal Member: Did you live in a small or large village? How many houses?

Detainee: 15-20 homes in the village

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Tribunal Member: You lived there all your life?

Detaince: Yes. I told you my father was born there.

Tribunal Member: Did you know the other people in the 15-20 homes?

Detainee: Obviously, they are my villagers.

Tribunal Member: You did not know if they were Taliban?

Detainee: No. No Taliban in our village. I cannot recall that I witnessed the Taliban. Probably Taliban came to try to contact some people. I left in the morning for work, and at nighttime I came back. I was busy. Every morning I took my car to the bazaar, and every evening I came home.

Tribunal Member: Where is your village in relation to a larger city in Afghanistan?

Detainee: No more large cities; I am close to the province.

Tribunal Member: Your village is not near Kanduz, Kandahar, Jalalabad or Khost?

Detainee: Only city that I went to was Kandahar to buy stuff, but it was not close to my village.

Tribunal Member: No more questions; thank you.

Detainee: I am ready to answer all of the questions that you have. My dear brother, you could ask anybody, even the ladies or little kids in my area, that I was a bus driver and nothing else.

Tribunal President: Did the bus belong to you or a company you worked for?

Detainee: No. It was my personal bus. I would go to the bazaar and pick up passengers. We buy our own car and pick our own passengers.

Tribunal President: Where did you normally take your passengers to?

Detainee: Every morning, I started my bus, and went towards the bazaar. I was driving down a road, and anybody that raised their hand I would pick up. I took them to the bazaar. At the bazaar I would take the rent. I was stopped at the bazaar until my bus was full again. When it was full, I left and went towards the village.

Tribunal President: So your normal passengers were villagers from your home?

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Detainee: They are not all my villagers. They are people from my province. I go to the main road and pick up anyone that raises their hand. I take them to the bazaar and then I take them home.

Tribunal President: Could any of your passengers been Taliban? Would you have known?

Detainee: How would I know? Anybody that raised their hand I would pick up. Probably they could be Taliban, but I did not know if they were Taliban.

Tribunal President: Is there any way that you could identify that someone was with the Taliban?

Detainee: No. I don't know. If they were Taliban I could not know. There were 60-70 passengers, ladies, in my bus, how could I know?

Tribunal President: You traveled the roads a lot, had you already seen U.S. forces in your area?

Detainee: No, I did not see. Nobody told me the American forces were in our area. In the marketplace, though, I saw the Americans riding in their cars.

Tribunal President: How far is the bazaar from your village?

Detainee: Approximately one hour or less than an hour driving. It takes one hour because of stop and go; you don't drive fast. I have to drive slow so I can pick up passengers.

Tribunal President: I want to thank you for participating in this Tribunal today.

Detainee: I thank you for coming, because I want you to tell me why I am still here in jail. If you did not bring me here, I would be in my cell and nobody would ask.

Tribunal President: And again, all we know about you at this point is what they put on this piece of paper. We appreciate hearing your side of the story.

Detainee: I swear I will do anything to make you believe me.

Tribunal President: Do you have anything else you'd like to say to this Tribunal?

Detainee: Only thing I want to say, is that I was not Taliban. I was not against the Americans. I was a bus driver. Why am I still here? I want to go home.

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At this time, the Personal Representative submitted 2 documents (exhibits D-B and D-C) on the Detainee's behalf. Exhibit D-B were letters from the Detainee's father, and D-C was the drawing provided by the Detainee.

The Tribunal President then 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.

Colonel, U.S. Army Tribunal President

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Type:	INCOMING		. 10 .
Item Number:	I-007393		LJD
Date Translated:		1011. 000-	WD
Sender's Name:	Hajji Yar Mohammad		
Addressee:	Muhebullah		
Address:	Uberda village, Treenkoot	district	
City:	Urozgan	Country:	Afghanistan
Language Used:	Pashto	Family: Yes	Translator

Greetings from Yar Mohamad Kaka to my dear son Muhebuliah. I present to you my greetings full of love to you. I hope you accept it. After greetings, Dear we are thankfully well and fine. And wishing for your health from Allah.

Your letter arrived my happiness was without boundaries. But I couldn't understand where are you. Next time when you write please write your complete address. V'e are also will try to work for your release. The Americans have promised us that they know that you haven't committed a crime and as soon as your injuries are healed you will be released.

Interpreter's Comment:

- (1) Allah's peace and blessing on his messenger and prophet Mohammed.
- (2) Peace and Allah's mercy and blessing upon you\family.
- (3) I bear witness that there is no God but Allah, and Mohammed is his servant and messenger.
- (4) God willing.
- (5) All praise due to Allah.
- (6) God the great, and almighty

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7. RED CROSS MESSAGE بيغام خانواد كي صليب سرخ/دسره صليب كورني يغام

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المبر العانه على المحتواد المبات الم
10. INTERNATIONAL COMMITTEE OF THE RED CROSS کمیته بین المالی مربخ

دسره صليب تريراله كميتي 19, av. de la Paix - 1202 Geneva, Switzerland

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8-4: Hadd

UNCLASSIFIED

11. REPLY TO THE MESSAGE

جسوا*ب|خ*سواب

Family and/or private news only

T-007393 JJJTCD

احوال خانواد گی که میمض ماهیت شیخصی داشته باشد محمدتی پیشامر بیمه یوازی شخصی اسمال بیبا دیمری

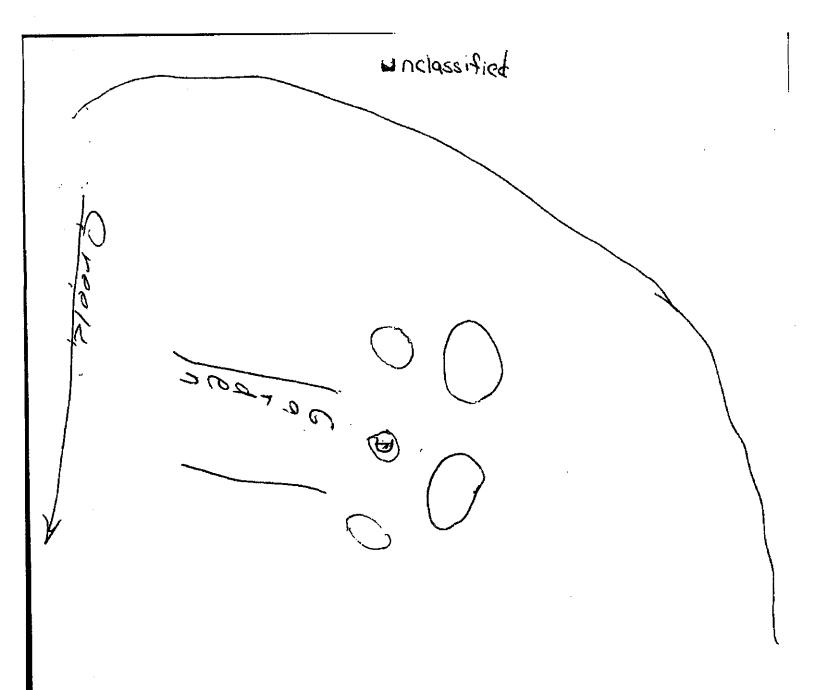
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