

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMAD NECHLE, *et al.*)
)
)
 Petitioners,)
)
 v.)
)
 GEORGE W. BUSH,)
 President of the United States, *et al.*,)
 Respondents.)
 _____)

Civil Action No. 04-CV-1166 (RJL)

DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:


1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mohammad Nechle that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify other detainees and the family members of detainees, as well as certain U.S. Government personnel in order to protect the personal security of

those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 278 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0278
27 October 2004

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

A handwritten signature in cursive script, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

Distribution:
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27 Oct 04

MEMORANDUM

From: Legal Advisor
To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #13 of 4 October 2004
(2) FBI memo of 26 October 2004
(3) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-24 to R-26 was redacted. The FBI properly certified in enclosure (2) that the redacted information would not support a determination that the detainee is not an enemy combatant. Based on the location and extent of the redactions in exhibit R-4 we can be confident that none of the redacted information would support a determination that the detainee is not an enemy combatant.
- d. The detainee requested four witnesses.¹ Three were produced and testified at the Tribunal. The U.S. State Department sought to locate the other witness but was unable to find him. Due to the inability of the State Department to locate the witness, the Tribunal President determined that he was not reasonably available. In my opinion, the Tribunal President's decision was not an abuse of discretion.

The detainee did not request any other evidence.

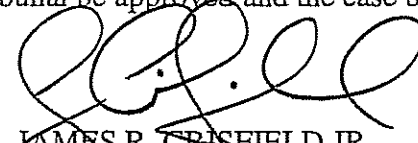
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

¹ Interestingly, the Detainee Election Form only lists three witnesses, all of whom were produced to testify. The Tribunal Decision Report does not indicate how the fourth witness request was made.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]

- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

Memorandum



To : Department of Defense Date 10/26/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

Pursuant to the Secretary of the Navy Order of 29 July 2004, Implementation of Combatant Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba, Section D, paragraph 2, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT AN ENEMY COMBATANT

The FBI certifies the aforementioned redaction contains no information that would support a determination that the detainee is not an enemy combatant.

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 04/30/2002
FD-302 dated 05/21/2002
FD-302 dated 07/14/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

Enclosure (2)

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/26/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED]
[REDACTED] or Intelligence Analyst (IA)

IA



Department of Defense
Director, Combatant Status Review Tribunals

4 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #13

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Army; President

[REDACTED], Commander, JAGC, U.S. Naval Reserve;
Member (JAG)

[REDACTED] Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

20 October 2004

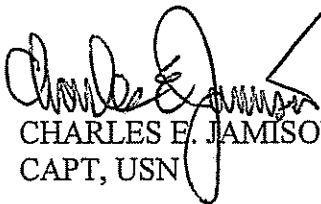
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #13

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #13 of 4 October 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U/FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 19 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(Enclosure (1) to Combatant Status Review Tribunal Decision Report)

TRIBUNAL PANEL: _____ #13
ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with al Qaida. The Detainee is a suspected terrorist with ties to the Algerian Armed Islamic Group (GIA) and is suspected of having links to al Qaida. The Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia. The Detainee is an associate of a known al Qaida operative in Bosnia. The Detainee is also known as Sharfuldin or Sharuldin. The Detainee chose to participate in the Tribunal process. He called four witnesses, one of whom was found to be not reasonably available. The Detainee did not request any documents be produced, and made a sworn verbal statement. The Tribunal President found 3 of the requested witnesses reasonably available. With regard to the witness found not reasonably available, the Tribunal President also found that alternative means of producing the witness's testimony were also not reasonably available, in that the requested witness could not be located by the U.S. Department of State in time for the Tribunal. The Detainee, in his verbal statement, denied being a terrorist, associated with al Qaida and a member of GIA. The witnesses called by the Detainee testified that the Detainee was not a terrorist, but rather was an upright man who worked with orphans in Bosnia through the Red Crescent organization. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-33.

b. Testimony of the following persons:

- 1. [REDACTED] (ISN [REDACTED])
- 2. [REDACTED] (ISN [REDACTED])
- 3. [REDACTED] (ISN [REDACTED])

c. Sworn statement of the Detainee.

4. Rulings by the Tribunal on Detainee Requests for Evidence or Witnesses

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED]	reasonably available	yes
[REDACTED]	reasonably available	yes
[REDACTED]	reasonably available	yes
Mohmoud Sayed Yousef	not reasonably available	no

Mohmoud Sayed Yousef was proffered by the Detainee as the Detainee's supervisor in the Red Crescent in Bosnia who would testify, if called, to the Detainee's work with the Red Crescent, the Detainee's good character and that he had no knowledge of any association by the Detainee with any terrorist organizations. While determined to be relevant, the Tribunal President found that the witness was not reasonably available in that after a period of reasonable diligence the Department of State could not locate the witness in Bosnia or in any other location based on the limited information and identifiers provided by the Detainee to locate the witness.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The recorder offered Exhibits R-1, R-2 and R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 contains an affidavit of the Detainee's wife, [REDACTED], submitted in the habeas corpus proceedings pending in the United States District Court for the District of Columbia seeking the release of the Detainee and [REDACTED] (ISN [REDACTED]). [REDACTED] averred that the Detainee was an employee of the Red Crescent in Bosnia, was wrongly accused but

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released by Bosnian authorities and then abducted by American agents, and is not a terrorist. Exhibit R-3 purports to be a Petition for a Writ of Habeas Corpus seeking the release of the Detainee and [REDACTED]. The copy presented to the Tribunal does not bear a docket number and is unsigned, but is dated 08 July 2004. Exhibit R-3 appears to be based on the affidavit of the Detainee's wife and other sources and sets forth legal arguments supporting the issuance of the writ. The Tribunal noted the allegations contained in the Petition but did not find them persuasive to the question of the Detainee's status as an enemy combatant. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence and to provide further light on the allegations contained in the writ pleadings.

b. The Tribunal also considered the Detainee's sworn testimony and the sworn testimony provided by the three detainee witnesses. A summarized transcript of the Detainee's sworn testimony and the sworn testimony of the witnesses is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee and the witnesses testified as follows:

(1) The Detainee: The Detainee appreciated the opportunity to address the allegations and the freedom to speak to the Tribunal and defend himself. The Detainee stated the reason he is being held in Cuba is because of charges brought against him in Bosnia related to an intent to plan an attack on the US Embassy. He was in prison in Bosnia for 3 months; that he was the victim of a political game without any intention to carry out an attack on the US Embassy; that if there were any truth to these allegations he would not have been taken by the Bosnians but would have been taken directly by the Americans and that this is proof of a political game. After 3 months in prison, Bosnia TV aired the fact that he was found innocent in the Bosnian court and to live free without conditions. The Detainee claimed that the acquittal was in his pocket when he was arrested; that he was surprised to be taken by the Americans; that his hands and feet were bound and he received the worst treatment of his life being without food, water and sleep for 36 hours. Since he's been in Cuba for 3 years, no one has ever asked him about the US Embassy. The Detainee maintains that he has cooperated with interrogators and has discussed the charity organizations but now finds himself faced with the strange accusation that he is al Qaida. He states that he only knows about al Qaida through the media and that it is an organization that kills innocent people. The Detainee believes that Islam is innocent of such acts and that he has lived his life as a good person as he was brought up by his father and that his heart doesn't allow for hatred; that his business was taking care of orphans. He stated that since over 70% of al Qaida has been caught, why can't any of them identify him. He believes that GIA is a terrorist group and if he were a member of that group, the Algerian government would know it and that the Algerian government told the Bosnia government that Algeria did not have him as a terrorist in Algeria. The Detainee stated that he worked for the Red Crescent; that it is not an NGO; that he worked outside of Sarajevo; that he met many people who worked in Red Crescent who can say what he did; that Sharfuldin is his other name and it is normal to have other names. Finally, the Detainee asserted his innocence in terrorism and that he has been wrongly accused.

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ISN # [REDACTED]
Enclosure (1)
Page 3 of 5

The Tribunal President inquired about the alleged mistreatment of the Detainee after he came into US custody. The Detainee stated that it was harsh but that he wanted to just let it go; that his treatment and the conditions have become better in the last year and that he was ill when he first arrived in Cuba and received some treatment but that his condition was untreated for some time after he arrived. The Tribunal President noted these statements for the record and caused a report of these allegations to be made through the chain of command.

(2) [REDACTED]: This witness stated that he would speak for the Detainee if the Detainee wanted him to, but that his lawyer said he should not speak to a tribunal. The Detainee asked the witness to testify for him and the witness agreed. The witness testified that he knows the Detainee like he knows his own pocket; that he knows his wife and children and that if the Detainee has anything to do with terrorists then the witness is a terrorist himself; and that if the Detainee were sentenced for terrorism then the witness would stay with him. The witness stated that he never knew the Detainee to be a member of GIA or involved in terrorism in any way; that he has know the Detainee since 1995 or 1996 and that he knows him as well as he knows his own wife and kids.

(3) [REDACTED]: This witness testified that the allegations that the Detainee is associated with al Qaida, the GIA and terrorists are all lies; that he has known the Detainee since they were in Albania and has never known him to be a terrorist; that he and the Detainee worked together in the Red Crescent in Bosnia; that he has known him since 1994.

(4) [REDACTED]: This witness testified that he would tell the truth about the Detainee and stated that all the accusations were false; that the Detainee is not a terrorist and is not part of GIA; that all he has ever know about the Detainee were good things since he met the Detainee in 1997; that the Detainee is concerned about his family and work and never broke the law; that if the Detainee is a terrorist then the witness is a terrorist too.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The Detainee understood the Tribunal proceedings. He actively participated in the proceedings, provided his own testimony and examined the witnesses called by him.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and was part of or supporting al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large, dark, irregularly shaped redacted area covering the signature of the Tribunal President.

Colonel, U.S. Army
Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the Hearing Instructions to the Detainee. The Detainee confirmed that he understood the process.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents. A closed session was requested at a later time to present classified evidence to the Tribunal.

The Detainee requested to take the oath before making his statement. The Recorder administered the oath.

Before I would like to address the accusations I would like to take a moment to thank the members of the Tribunal for giving me the chance to come and speak on my behalf. And this shows freedom of speech and the right to defend yourself.

In the beginning I would like to talk about the reasons for my presence in Cuba before I talk about the accusations. Maybe you saw in my file that I was accused in Bosnia of terrorist activities. Planning to attack the U.S. Embassy in Sarajevo. The accusation was the intent to plan to attack the U.S. Embassy. As if they went into a person's heart and tried to find out what they were thinking and then came up with this accusation. We were detained in a prison in Bosnia and we were interrogated there for three months. We were the victims of a political game. This political game has no proof that we had intended to carry out an attack against the U.S. Embassy. I would like to make clear that if this was a real accusation, if it were true that this was a matter regarding national security of the United States; from the first day they would have taken me from my home to America. Five percent proof, that I had anything against the United States, they would have taken me from my house to the United States, so that I could be tried in America because this is a matter regarding the American Embassy. Which is proof that this is a political game first of all. The second thing is that I stayed in a Bosnian prison for three months. And they were waiting for an American to come and interrogate us. No one came to the prison and no one interrogated us. This is proof that this is a political game between the Bosnian government and the American government. In the end, after three months, after the interrogations, and after they asked us everything, Bosnian television aired the fact that they we found innocent by the court. So we were in prison and acquitted in prison. These people are to be released immediately without any conditions and to live in Bosnia as free people. Unfortunately, when we were released (inaudible), and maybe you have a copy of it here. You must have it, because it was in my packet when I came here. So when we came out of prison we were surprised that we were handed over to the American forces that are present in Bosnia. We were bound by our hands and our feet and we were treated the worst treatment. For 36 hours without food, sleep, water or anything and we were treated the worst treatment. We came to this place so they could interrogate us. Now I have been here for three years. Unfortunately I thought the case was about an American embassy and up until now no one has directed one question towards me regarding this case. In spite of the fact they told us this case was about the

American Embassy, we were surprised by the fact that this is not about the American Embassy. I asked my interrogators, then why am I here. He said forget about the fact that you were here because of the American Embassy or because you're from al Qaida or because you are a terrorist. I said, "You told the world that you had proof against that we were involved in an attack against the American Embassy." He said to forget this because in Bosnia nothing happens, we know this. You came here to give us information about relief and rescue operations in Bosnia. So we were surprised and in spite of this we cooperated with the interrogators. We talked about these charity organizations and we cooperated to the fullest extent with these interrogators. In the end we were faced with strange accusations that are not backed with any proof. We were from al Qaida (*referring to paragraph 3 of the Unclassified Summary*). We were members of al Qaida in Bosnia. We're part of the Armed Islamic Forces (*referring to paragraph 3.1*). This al Qaida, I only knew it through the media, that's it. This al Qaida is a terrorist organization that kills innocent people and we are against the killing of innocent people. We were very, very upset at the events that happened in America before. I imagine that the people in these buildings (*the World Trade Center*) could be my brother or my father or my sister or my son. Islam is innocent of these actions. It is innocent of the actions that these individuals carried out without any reason. My father taught me how to do good and how to treat people right. I was brought up in my house with good principles and how not to harm anyone or do anyone any harm. In my whole life I never did harm to anyone with my tongue by talking so how could I harm anyone with my hands. This is how I was raised in my house: helping people and loving people. So my heart does not allow any evil to be in it. To say you are part of al Qaida or you're terrorist, my heart does not allow for this. My father when he used slaughter or kill chickens I used to cry. I used beg him please don't kill these chickens so how can I be a part of this terrorist activity or organization. Even my work that I do in Bosnia and Herzegovina is with orphans and taking care of orphans. I took care of these orphans, and I gave them compassion and care and I'm there in place of their father or their brother. I used to hold the orphans in my hands and give them food or nutrition until they reached a certain age. So how can my heart hear any evil or wrongdoing? So I am innocent of these of accusations that do not have any relation or anything to do with me. I asked one of the interrogators one day. "Did you say that have captured 70% of the members of al Qaida?" He said yes yes we have captured 70% of the members of al Qaida. I told him, "Good. That's excellent! Take my picture and my information and take them to these people and ask them am I from al Qaida or am I not from al Qaida. You will feel better and I will feel better." That's it, he told he would try he will ask and so on. Al Qaida kills even the Muslims themselves. In the studies it said that the buildings had 700 Muslims in them and they all died. Are they not Muslims? So al Qaida kills even Muslims. Islam is innocent of these things. People think wrongly of Islam. Islam should be presented to people on a plate of gold not a plate of fire. Islam has taught me to respect my neighbor even if he was Christian and to visit him if he were sick. If he died, I'd go to his funeral. Because he is human, the same race as me. That is what I was taught and that is what my father taught me in our house. Also, regarding this Armed Islamic Group (*paragraph 3.1 of the Unclassified Summary*), this is also a terrorist group. I thought that one day I would go to Algeria to visit my family. The Algerian

government knows about all the members and knows everything about the Armed Islamic Group. How could I be part of the Armed Islamic Group and be able to travel to Algeria? I would have gone there and been executed. I would have been afraid to go to Algeria if I was a member. So this matter is not true. The Bosnian government said to the Algerian government, these people are part of the Armed Islamic Group come take them from us. The Algerian government said no these are not terrorists and they're not part of the Algerian Armed Islamic Group. Try them if you have anything against them with you. If you don't have anything on them, release them as innocent people. Is that not proof? This is important proof that the government itself knows that we are not part of the Armed Islamic Group. You have been interrogating me now for three years. You have asked everything about me even the stones and the trees (an expression). You have asked everything of me and thank God you know that I'm not from al Qaida. You say I have classified evidence. I would say yes you do have classified evidence, but it shows that I am innocent of this accusation. I don't have any relationship with these things at all. That is what regarding this matter about terrorism. I don't have anything to do with this and I am innocent completely of these accusations.

Paragraph 3.2. Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia.

Regarding the third accusation where it says that you met with the Algerians in the Red Crescent Society. Met with Algerians working for non-government organizations. Regarding this matter, the Red Crescent is a known government organization. It does not have any relationship with non-government organizations. These non-government organizations they work together and they have coordination between them and they just work together. So we don't have anything to do with at all. If they needed anything, they could confer with our management who would not attend as a member of this government organization because that's not allowed. I used to work outside Sarajevo in a city called Dehughe. I never met with any Algerians in any non-government organization. I used to have meetings with members of the office. The manager, Macmuseth (ph) and he's an Egyptian, Imin Faghe (ph) he's an accountant. (inaudible) he is the manager of the office in Tusla which is another city. Nocfmid (ph), he is present here and he is responsible for the office in Sarajevo. He is the only Algerian that was working with me in the Red Crescent. I did not meet with anyone besides these four. We used to meet once a month and discuss matters regarding the orphans. Everything is recorded at the office. The meeting, when it was, the members that attended the meeting, and what was said during the meeting, everything was recorded. You can get in contact with Sarajevo and talk to the manager there. Government organizations also they have their own specific meetings. Non-government organizations have their own meetings and I did not attend any of those. I never attended any of their meetings. You can ask the manager. You can ask Sarajevo. That is my answer to the third accusation.

Paragraph 3.4. The detainee is also known as Sharfuldin or Sharuldin.

Regarding the accusation that says your name is Sharfuldin. Not Sharuldin, it's a mistake. But, it's the first one Sharfuldin. In the Arab countries it's not a problem, it's not abnormal and it's very common for people to be called by names other than their names like Abdul something, which is the father of something. Or, to be called by another a name that you're known by. For example, my brother's name is [REDACTED] (ph). I call him [REDACTED] (ph). My friends call him [REDACTED] (ph). (inaudible). My name is Mohammed but they used to call me Sharfuldin. This is something very normal. It's not something that I hide and I'm not hiding anything regarding this matter. Even in Bosnia, when dealing with anyone, I always used my real name Mohammed Nechle and my cards say Mohammed Nechle. My papers and dealings with government are in my real name. Only when I went to Dehug, when I was with the orphans in Dehug. Dehug is very far from Sarajevo and they have their own accent or dialect. It's close to Croatia. So that's why their accent or dialect is close to Croatian so when I went there I told them that my name Mohammed Nechle and some of the orphans laughed at this. I asked them why are you laughing? The word Nechle, what we know of the Nechle is that it means congestion, like when you have a cold and you're stuffed up. That's what it means. So they were laughing. I told them okay you call me Mohammed, Mohammed Sharfuldin so you can stop laughing. Call me that. Only the orphans used to call me that. No one else used to call that. Ask one of the orphans there at Sum Dehug you can make sure of that fact. I don't have any aim or anything regarding an alias. I'm not hiding anything. That's what I have to say to about these accusations. I am innocent of these accusations. I don't have anything to do with terrorism or anything like that.

Believe me, I came to this place as a mistake and I think that I was wronged. It was unfair to me. I always used to wonder why am I here. Especially when the interrogator used to tell me that we want information from you about these organizations and you are innocent. And you present me with these accusations that have anything to do with anything. I have a clear conscience that I am not a part of these terrorist organizations. I am not afraid of anything because I am not a terrorist. If you interrogated me for 20 years you would find that I am Mohammed Nechle. God as my witness, as God as my witness, as God as my witness. I thank you.

The Tribunal President confirmed that the Detainee's statement had concluded. The Personal Representative had no questions. The Recorder had questions for the Detainee. The Tribunal members had the following questions:

Tribunal Members' questions

- Q. Would you please tell me something about your education.
- A. You mean when did I finish my education?

Q. Yes and far along did you go?

A. I got to high school. The last thing before college. Then I stopped with my studies. I freed myself for trade.

Q. What kind of trade did you work in Algeria?

A. Vegetables and fruits. When my father was sick I used to help him. That was my job.

Q. Did you have any military service while in Algeria?

A. No. I had an excuse from that duty.

Q. Did you receive military training in any other country?

A. No.

Q. When did you join the Red Crescent?

A. In Albania I worked with the Red Crescent. Until I was captured until Bosnia.

Q. So at what time did leave Algeria to go to Albania what year?

A. 1995.

Q. When did you into Bosnia from Albania?

A. I lived in Albania and then when the civil war occurred in Albania I asked to transfer from the Albanian office to the office in Bosnia, through the main office in Abu Dabi (ph), in the United Arab Emirates. The security situation was not very good in Albania. So they transferred us directly from Albania to Bosnia. That's it.

Q. When you joined the Red Crescent, did you join it just for Albania or did you join it in the International Red Crescent?

A. The United Arab Emirates Red Crescent. Before that it was called the Abu Dabi (ph) organization and then it became the Red Crescent. Just the Emirates. It's main office is in Abu Dabi.

Q. Do you know where the main office is for the Red Crescent is? Not just in Abu Dabi?

- A. In the capital in Abu Dabi. The exact location I don't know. You can call and ask about it.
- Q. The point I'm trying to get to is, are they all under one main organization?
- A. The Red Crescent?
- Q. Yes, in Albania, in Bosnia...
- A. The main office is in Abu Dabi. Sheik Zaiat Ima Hil, is the president of that countries office. It has branches in the world. In Albania, in Bosnia, Khezikikistan (inaudible), Kosovo. Many countries
- Q. Throughout the Muslim world?
- A. Just about. Poorer countries like Albania.
- Q. When you told us that you worked with orphans, children without homes. What was your official title or duty with the Red Crescent?
- A. I was there for the aid of the orphans. I would give help. I visited orphans in their houses or distributing food to them. Teaching them computers in the English language. Complete help in all aspects. Social help mostly.
- Q. Did you receive a regular salary?
- A. Yes, about \$1, 000 a month. The cost of living in Bosnia is high so it really wasn't that much. I used to rent a house for \$200. I would end up saving about \$100 or \$50 a month. My work was more than that because I wanted to help people. It was more of a voluntary nature. If money was important to me I could have been making \$10, 000 but this was enough for me to live with my wife and my kids.
- Q. So your wife and family were with you in Bosnia and lived with you?
- A. Yes.
- Q. From 1995 to the present?
- A. Yes they were with me in Albania and then moved with me to Bosnia.
- Q. Did anyone else live in the house with you other than your family?
- A. No just my wife and my children.

- Q. The \$1,000 a month salary. You were saying \$200 for rent and you saved about a \$150. Not to be exact but where did the rest of the money go?
- A. \$200 for the rent for the house. Gas, electricity, and telephone about \$150. Gas for the car about \$100, it's expensive. And the rest was for the house like food and drinks and stuff like that. Like I said, it was a simple amount.

Tribunal President's questions

- Q. I just have one question. You talked about what happened to you in Bosnia when you were turned over to the Americans. And you talked a little bit about abuse there. I understood you to say that it was at the hands of the Americans.
- A. The Americans were in kind of a war against terrorism. So anyone in that situation would have been treated badly. I excuse them for that treatment. I just told you that we were not treated in a humane manner. We were not caught in Afghanistan or any place like that, we were caught in Bosnia. We were taken from our houses. Now I have many illnesses that I never had before. It was difficult. We were treated in a harsh manner, but we were supposed to be treated better than that because we had been acquitted. We don't have any relationship with terrorism or anything like that. So what I was saying is that I wish we would have been treated better on the way here and given food and water. Even the bathroom was forbidden from using it on the way here. The way was about three days and during the three days they just gave us some apples, that's all we ate. When I got here I was sick for about a month or a month and a half from exhaustion. I used to think that America had respect for human rights when it comes to prison. That's all I have.
- Q. Was there any physical abuse while you were in transit?
- A. It's not a problem. Just leave it. We weren't beaten for no reason, but our hands were bound like that (looking down at his handcuffed wrists). Even that used to stop you. You couldn't feel your hands. This part (referring to his wrists) is numb right now I can't feel anything. But it's not a problem it's passed.
- Q. I appreciate your excusing it, however it is a concern of ours.
- A. I excuse them because of the war that they were in and because of the events that happened in America. Anyone would have probably done the same thing if they were in their place. We were just victims to this.
- Q. How have you been treated since you have been here in Cuba?
- A. It's changed in the last year. It's better than before. There is improvement in the treatment.

- Q. When you arrived here sick, did you receive treatment for your illnesses?
- A. In the beginning they didn't treat me. I asked them to treat me and they left me for a long time without treatment. I had a hemorrhage, that's what I had and I talked to them about that. I used to tell them there was blood; I was bleeding. I used to tell them about it time after time and just left it. I had problem with it and they told me that they didn't have any doctors here. They said they to call America and have bring over specialists. So this comes here and now they have all these doctors. A person comes here...A person comes here healthy and then he leaves with all these illnesses. Besides the fact that your future, the way that came here; your image is tainted in the world because of the way that you brought here and the media how they depict it. I was a respectable person living in Bosnia. People used to respect me and had good relations with people. I had great respect. In the end the way that this happened, the way I was brought here and the accusations that brought against me, I feel that my future has been destroyed. A person does not even know what to say to their kids now. Your father, why is he in Cuba, because he has accused of terrorism. That's a really big thing. I just hope that you are fair in my case and that you take everything into consideration. I swear to that I am innocent. I have been wronged and I don't have anything to do with terrorism or anything like that. Thank you.

The Tribunal President thanked the Detainee for participating in the Tribunal and confirmed that he had presented all the evidence that he intended to present. The procedure for the witnesses the Detainee requested to have make statements on his behalf were explained. The first witness was then brought into the Tribunal.

The first witness was brought into the Tribunal. He confirmed his name for the record and was then administered the oath.

Detainee's questions to witness [REDACTED] (ISN [REDACTED])

Detainee: When I got to Bosnia from the year 1997 until now did I ever any relationship or anything to do with terrorism or al Qaida or the Armed Islamic Forces? Or am I a terrorist or not? Please explain to the Tribunal.

Witness: I would like to tell them something first. I got a letter from an American lawyer last week and it said do not participate in this Tribunal and anything you say in this Tribunal will be used against you. Don't even speak with the Personal Representative. So I'm asking you. If you want me to talk I will talk. If you don't want me to talk I won't talk.

Detainee: I got the same message from the lawyer but I have chosen to participate in order to clarify these points and defend myself. So you can say your testimony.

ISN# [REDACTED]
Enclosure (3)
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Witness: From the day I knew Mohammed, I know him as well as I know my pocket. As well as know my wife and my kids. If Mohammed has anything to do with terrorism, so I must also have something to do with terrorism. If Mohammed is a terrorist then I am for sure a terrorist. If you were to sentence him to prison for terrorism then I would wish to stay with him. I've known Mohammed in my life to have any relationship with terrorism rather it's terrorism or rather it's this Armed Islamic Group, there is completely no relationship. Terrorism is on this side and Mohammed is on this side.

The Detainee had no further questions for the witness. The Personal Representative had no questions. The Recorder had no questions for the witness.

Tribunal Members' questions to the witness [REDACTED]

Q. How long have you known the Detainee?

A. Approximately '95 or '96 end of '95.

Q. Do you know him both personally and professionally or just through work?

A. I don't understand the question.

Q. Do you know him socially as well as through work?

A. We don't work together. When we met, he worked at the Red Crescent and I worked at another place.

Q. Where did you work? In 1995 to 1996?

A. You asking me?

Q. Yes I am.

A. Then I won't answer. This is Mohammed's Tribunal not [REDACTED] Tribunal. When it's my Tribunal, I will answer.

Q. I seek to understand how well you know Mohammed Nechle.

A. I told you I know him as well as I know my wife and kids. I don't have an answer better than that.

Q. How many kids does Mohammed Nechle have?

A. Two.

Q. What hobbies does Mohammed Nechle have?

A. These are very strange questions.

Q. I am trying to establish how well you know Mohammed Nechle.

A. What I know about Mohammed. I know that he likes soccer, cars, bikes, things like that.

The Tribunal members had no further questions for the witness. The Tribunal President thanked the witness and concluded the question and answer session. The next witness was brought in before the Tribunal. The Tribunal President asked the witness to state his name. The witness replied:

You know my name. You have my name.

Tribunal President: We need to verify for the record

 (in English)

The Tribunal President confirmed that the witness was there to testify on behalf of the Detainee. The oath was then administered to the witness. The Tribunal President explained the procedures for his testimony.

Detainee's questions to the witness  (ISN# )

Detainee: I need your testimony because they have accused me of being a terrorist and of being a member of the Armed Islamic Group.

Witness: They are lying.

Detainee: From the time I was in Albania until now, was I ever related to terrorism or the Armed Islamic Group or anything like that?

Witness: Never. Never.

Detainee: They accuse me of meeting with Algerians in non-governmental organizations when I was working for the Red Crescent. Do I have any meetings with anybody besides the people in my office or anyone who was working for a non-government organization?

Witness: Never.

Detainee: That's it.

The Tribunal President confirmed that the Detainee has concluded his questions for the witness. The Personal Representative had the following question:

Personal Representative question to witness [REDACTED] (ISN [REDACTED])
Personal Representative: Yes.

Witness: It that your Personal Representative (said to Detainee)? They are lying. Another person came to me and told me he was your Personal Representative.

Detainee: No. They changed Personal Representatives.

Personal Representative: Please explain your working relationship with Mohammed while you were in Sarajevo. You worked together. Please explain.

Witness: He worked with me I worked with him. He worked in the city. I worked in the Capital. He did not work in Sarajevo. He worked outside of Sarajevo. We did the same work with orphans. He worked with orphans in the place he was in and I worked with orphans in the place I was in. Do you have anything else to ask me (said to the Personal Representative)?

Personal Representative: No.

Witness: Next who (said to the room in general)?

The Tribunal President asked if the Recorder had any questions for the witness.

Recorder: No.

Witness: I am here to testify. Ask me (said to the Recorder). It's for my brother that's all.

The Tribunal members had the following questions for the witness:

Tribunal members' questions to the witness [REDACTED] (ISN [REDACTED])

Q. In what year did you first meet Mohammed Nechle?

A. '94 in Albania.

Q. Was he working for the Red Crescent then?

A. Yes.

Q. Were you his supervisor or co-worker?

A. We had the same job.

Q. How many children does Mohammed Nechle have?

A. That is the question? This something regarding him? He has a boy and girl.

The Tribunal President thanked the witness and concluding the question and answer session. The next witness was brought in before the Tribunal.

The Tribunal President confirmed that the witness was there to testify on behalf of the Detainee. The oath was then administered to the witness. The Tribunal President explained the procedures for his testimony.

Detainee's questions to the witness [REDACTED] (ISN [REDACTED])

Detainee: They accused me of something. I would like you to testify. They accused me of being a member of al Qaida in Bosnia and that you were part of the Algerian Armed Force Group and that you were a terrorist. So I would like you to testify and tell the truth about what you know about me. I thank you.

Witness: Truthfully, all I know is good. Since I've known him in 1997 until the day we were imprisoned here, I don't know anything about him but good. He is a man who was very involved and concerned with his children and his family and in his work. The whole time I knew him, I never knew of him to break any law in the country that we were living in. I never knew of a terrorist act to be related to him. Rather it was in the country we were living in or any other country. I never knew that he had wronged anyone or had been unfair to anyone in any one of these days. We were all very surprised at the accusations that they place against when they handed us over to the Americans. Therefore, he is not related in any way to any of these things. I know him as well as I know myself. If he is a terrorist then I am a terrorist as well because I know him as well as I know myself. That's what I have.

The Tribunal President confirmed that the Detainee had no further questions for the witness. The Personal Representative had the following question:

Personal Representative question to the witness [REDACTED] (ISN [REDACTED])

Personal Representative: How did you come to meet Mohammed in Bosnia?

Witness: I knew him in '97. He was an Algerian like me so I met him and I got to know him. He was working with the Red Crescent. He's Algerian and I'm Algerian so we got to know each other and relationship continued. From that day until the day we were imprisoned we've known each other.

The Tribunal President confirmed that the Recorder had no questions for the witness

The Tribunal members had the following questions for the witness (ISN [REDACTED]):

Tribunal members' questions to the witness [REDACTED] (ISN [REDACTED])

Q. Do you come from the same part of Algeria as Mohammed?

A. Yes.

Q. Did you know his family or his relations where you came from?

A. No I don't know his family but his family is known in the city as well as my family name is known around the city.

Q. Was there a large Algerian community in Bosnia?

A. What do you mean?

Q. How many other Algerians were there in Bosnia that you knew of and associated with?

A. I think there is but I'm not sure exactly how many but I'm sure that there is.

Q. Did Mohammed associate with the other Algerians in Bosnia?

A. From what I know of the people that he knew are the same people that I know and they are here; [REDACTED] and [REDACTED]. It was very limited knowledge of other people.

Q. Mohammed has told us that he worked with the orphans under the Red Crescent and tried to help the orphans. Do you know what Mohammed did with his free time with his spare time?

A. He lives far away from Sarajevo. I live in the capital of Sarajevo and he lives in a city far away from Sarajevo, so I don't know exactly what he does. When he would come to Sarajevo every month maybe one or two days we would meet up. Say hi how are you, how are you doing. We would go to a café and drink coffee or go to a restaurant and eat. Things like that.

Tribunal President questions to the witness [REDACTED] (ISN [REDACTED])

Q. You said that you were imprisoned in Bosnia with Mohammed.

A. Yes.

- Q. What do you think led to your imprisonment? Why did they suspect you?
- A. The matter is very simple. The events that happened in American on September 11th were very important and great events (great as in big). And any person who has a heart would have upset at this matter. Any person who helped or supported these events is a terrorist. Any person who has a humane heart would be upset at these events that led the death of many people, children, women, men, young people. So many countries wanted to help the United States in anyway that they could. Bosnia wanted to give help but it gave help in the wrong way. Bosnia didn't have anything to turn over so they found this group of Algerians. They said okay this is a group of Algerians living there and there is terrorism in Algeria so here we go. All these words that the government said is wrong or irrelevant because the High Court said that we were innocent and they acquitted us. That's the reason.

The Tribunal President thanked the witness for participating in the Tribunal.

Also I thank you for listening to me as well as my brother Mohammed.

This concluded the witness phase of the Tribunal.

The Tribunal President asked if the Detainee had anything further to add before the Tribunal was concluded.

I have a question and I have a suggestion at the same time. I asked a lot of people who have gone through Tribunals, a lot of them are in Camp 4, so I got the chance to ask to them and everyone who has gone a Tribunal, most have been Enemy Combatants. Even the others in Camp 1 and Camp 2 and they've all be Enemy Combatants. I haven't seen anyone who's been innocent in any of this. So just want to ask, have you found anyone innocent yet and if you haven't there's no need for these Tribunals just say that everyone is an Enemy Combatant. If it's possible to answer you can answer but if it's not it's no problem.

Tribunal President's response:

I would say that each case is judged on its own merits. I can't speak to the other Tribunals but we will look at your case as fairly as we can.

The Detainee thanked the Tribunal President and posed the following suggestion:

Maybe in the Tribunals there could be a clock on the wall. So that the Detainee can look at it and see how long he's been speaking, how long the Tribunal went on. Just a suggestion.

Tribunal President: I can tell you that we probably don't look at a clock just because we are here to listen to what you have to say and however long it takes is fine.

Detainee: It's not a problem. Just that I know how long I talk, like 15 minutes, half and hour just to know. But it's not a problem if the Tribunal is two, three hours it's no problem.

The Tribunal President confirmed that the members of the Tribunal had no further questions.

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.

A large black rectangular redaction box covering the signature of the Tribunal President.

Colonel, United States Army
Tribunal President

DETAINEE ELECTION FORM

Date: 19 Oct 2004

Start Time: 1300 hrs

End Time: 1400 hrs

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? MODERN ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? READ TO HIM

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

The Detainee will participate in the Tribunal and he will orally address the Tribunal. He will take the Muslim oath and he will answer questions. He will also call three detainee witnesses to testify on his behalf. All three will take the Muslim oath and answer questions, they are: 1) ISN# [REDACTED] 2) ISN# [REDACTED] 3) ISN# [REDACTED]

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – NECHLE, Mohammed.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida.

The detainee is associated with al Qaida:

1. Detainee is a suspected terrorist with ties to the Algerian armed Islamic group (GIA) and is suspected of having links to al Qaida.
 2. Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia.
 3. The detainee is an associate of a known al Qaida operative in Bosnia.
 4. The detainee is also known as Sharfuldin or Sharuldin.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

IBIT

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R1

EXF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[REDACTED])
Detainee, Camp Delta;)
[REDACTED])
as Next Friend of)
[REDACTED])
MOHAMMED NECHLA,)
Detainee, Camp Delta;)
[REDACTED])
as Next Friend of Mohammed Nechla,)
Petitioners,)

v.)

GEORGE WALKER BUSH,)
President of the United States)
The White House)
1600 Pennsylvania Ave., N.W.)
Washington, D.C. 20500)

AFFIDAVIT OF
STEPHEN H. OLESKEY

DONALD RUMSFELD,)
Secretary, United States)
Department of Defense)
1000 Defense Pentagon)
Washington, D.C. 20301-1000)

ARMY BRIG. GEN. JAY HOOD,)
Commander, Joint Task Force - GTMO)
Guantánamo Bay Naval Base, Cuba)
c/o United States Army,)
Army Pentagon)
Washington, DC 20310-0200)

ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta,)
Guantánamo Bay Naval Base, Cuba)
c/o United States Army,)
Army Pentagon)
Washington, DC 20310-0200)

AFFIDAVIT OF [REDACTED]

I, [REDACTED] resident of [REDACTED] Algeria, being duly sworn, depose and state as follows:

1. I am the wife of [REDACTED] He is being held in Guantanamo Bay.
2. My husband is an Algerian citizen.
3. I married my husband in October 1995, in Albania, where he was working with the Red Cross (Red Crescent) of the Emirate of Abu-Dhabi.
4. I have two children. My children and I have had to live with my parents for the past while, because my husband is not there to help take care of the family. This has been very difficult on the whole family.
5. After we spent two years in Albania, he was moved to Bosnia-Herzegovina to work there instead, with the same organization. He worked continually in that job for the next four years until his arrest and subsequent abduction.
6. My husband was arrested in Bosnia on October 20, 2001. He spent three months in prison. At that point, the Bosnian court ordered his release.
7. However, even though he had been declared innocent and ordered freed, my husband was simply abducted -illegally- by American agents.
8. Since that time, apparently my husband has been held in Guantanamo Bay.
9. I have not been able to find out why he is being held. I know that my husband is innocent of any terrorism. My husband is opposed to violent acts of all kinds, and is a peaceful person. He never showed any kind of hatred towards the Americans.
10. I know that my husband would want me to take all steps possible to help secure his release and I therefore wish that *Justice in Exile* and the *Center for Constitutional Rights* take all legal steps possible in my interest and the interest of my husband.

Sworn to by the deponent on this ___ day of June, 2004.

[REDACTED]

Miss

[REDACTED]
[REDACTED]
[REDACTED] LGERIA

Greenhouse Bink
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*24 53
[REDACTED]*

SIR CLIVE STAFFORD SMITHE
24/06/2004
DEAR SIR.

MY HUSBAND,S CASE JAILED IN GUANTANAM

I WOULD LIKE TO EXPOSE MY CASE TO YOU AFTER MY HUSBAND HAD BEEN ARRESTED

HE IS NOW IN GUANTANAMO, HE IS NAMED [REDACTED]
[REDACTED] LET ME INFORM YOU THAT WE GOT MARRIED ON OCTOBER 1995 IN ALBANIA WHERE HE WAS DEVELLING AYRAR BEFORE . HE WAS WORKING FOR THE RED CROSS FOR THE EMIRAT OF ABU-DHABI. AFTER WE HAD SPENT 2YEARS IN. ALBANIA WE WENT TO BOSNIA HERZEGOVINA. HE HAD THE SAME JOB AS IN ALBANIA I MEAN HE WAS WORKING FOR THE RED CROSS FROM 1997 TELL THE DATE OF HIS ARREST BY AMERICANE AGENTS 2 0/10/2001 AFTER HE SPENT 03 MONTHS IN PRISON IN BC.SNIA. THE COURT OF JUST.CE OF BOSNIA SENTENCED HIM INNOCENT. AFTER BEING ARRESTES BY THE AMERICAN AGENTS HE WAS TRANSFERED TO GUANTANAMO IN SPITE OF THE JUSTICEDECISION ROHICH DECLARED HIM INNOCENT OF THE AACCUSAL OF BELOUGING TO A TERRORIST GROUP PREPARRING ATTKAS AGAINST THE AMERICAN EMBASSY IN BOSNIA SINCE THEN, HE IS TREATED AS ALL PRISONNENS WITHANT BEING ABLE TO HAVE A LAW YER NEITHER RIGHT OF BEING JUDGED. EVEN THE MAIL STOPPED SINCE AUGEST 2003.

WITH MY TWO DAUGHTERS WE HAVE BEEN AT MY PARENTS HOME WITHANT ANY RESOUCES TO SATISFY THE NEED OF MY CHILDREN.

I WOULD BE GREATLLY GRATEFUL TO YOU IF YOU COULD PROWDE ME WITH AHE EPEING HAND. TO FREE MY HUSBAND WHO NEVER COMMITED A TERROREST ACT AND WHO HATES THAT A PERSON KILLED ANOTHER PERSON FOR ANY REASON. MY HUSBAND IS APLACEFUL PERESON WHO NEVER SHOWED ANY KIND OF HATE OR DISISE AGAINST THE AMEFICAN.

I, AMVERY CONDENT AND I TRUST YOU COULD BE ABLE TO FIND SOLUTION TO MY SITUATIOPN.

AWAITING FOR AN ANSWER FROM YOU RECEIVE MY BEST REGARDS.

[REDACTED]
[REDACTED]



AFFIDAVIT OF [REDACTED]

I, [REDACTED], being duly sworn, depose and state as follows:

1. I am the wife of Mohammed Nakhla. He is being held in Guantanamo Bay.
2. My husband was born on the 2nd of April, 1968. He is an Algerian citizen.
3. My husband is a tall man with black hair, and black eyes. He has blond marks on his cheeks.
4. My husband is originally from Lighthouse, Algeria.
5. My husband worked for the Red Crescent (the equivalent of the Red Cross) of the United Arab Emirates. He worked for three years in Albania, and five years in Bosnia. His job was to help orphans.
6. We lived in Bihartch, which is about 600 km from Sarajevo, for five years. He would only go to Sarajevo when asked to do so professionally by his boss, and he would stay about three months there when he would go.
7. We were in Bihartch on October 19, 2001, at approximately 6 p.m. The police came and took my husband. They did not tell us what they were looking for. They held him, interrogating him, for 24 hours.
8. There was an inquiry that lasted three months, they were judged innocent of any wrongdoing by the High Court in Bosnia Herzegovina. My husband was ordered released.
9. However, at the time he was to be freed, my husband was simply abducted [REDACTED] entirely illegally [REDACTED] by American agents. This happened when I, along with others, was waiting for him to be freed, along with others who had apparently been falsely accused.
10. Since that time, apparently my husband has been held in Guantanamo Bay. Despite our efforts, we have not been able to find out why he is being held. I know that my husband is innocent of any terrorism.
11. I know that my husband would want me to take all steps possible to help secure his release.



Guantanamo
FILE COPY

06-24-04A09:38 RCYD

CRSS

Dear Sir,

Husband's name is : NECHLA Mohammed
 Date of birth : April, 2nd, 1968
 Place of birth : Laghouat, Algeria

He worked for: The Red Crescent of the United Arab Emirates (U.A.E).
 He worked for five years in Bosnia and three years in Albania.
 He was a responsible of the orphans.

We lived in a city named Bihartch which is 600 km far from Sarajevo.
 My husband went to Sarajevo only when his boss asked him and just for professional purposes. Each time he stayed three months there. We lived in Bihartch for five years till October 19th 2001 at 6: PM. The police came home to look for I don not know what my husband had been taken into another room alone he was asked many questions I don't know about what. The investigations lasted til. 24 h. My husband had been taken by the police that night without knowing the real reasons for his arrest, two others Algerians were accused of committing acts against the U.S.A. embassy and Great Britain Embassy in Bosnia.

They were judged by the High Court of Bosnia Herzegovina. After an inquiry they were debarred innocent and were released after three months of jail.
 After they had been released from prison they were kidnapped by Americans agents thought the court of justice had declared them innocent. The kidnapping happened next to the prison where we were waiting welcome my husband and other prisoners.

My husband is a tall man with black hair and black eyes. He has blond points (marks) on his cheek and a full stop.
 He is now imprisoned in Guant Anamo.
 We don't know why. My husband is innocent of committing terrorist acts against any country of the world
 We got married on May 20th in Laghouat, Algeria.

Unclassified

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[REDACTED]
Detainee, Camp Delta;

[REDACTED]
as Next Friend of
[REDACTED]

MOHAMMED NECHLA,
Detainee, Camp Delta;

[REDACTED]
as Next Friend of Mohammed Nechla,

Petitioners,

v.

PETITION FOR A WRIT
OF HABEAS CORPUS

No. _____

GEORGE WALKER BUSH,
President of the United States
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500

DONALD RUMSFELD,
Secretary, United States
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

ARMY BRIG. GEN. JAY HOOD,
Commander, Joint Task Force - GTMO
Guantánamo Bay Naval Base, Cuba
c/o United States Army,
Army Pentagon
Washington, DC 20310-0200

ARMY COL. NELSON J. CANNON,
Commander, Camp Delta,
Guantánamo Bay Naval Base, Cuba,
c/o United States Army,
Army Pentagon
Washington, DC 20310-0200

(continued on next page)

UNCLASSIFIED

Exhibit R3

Respondents,)
)
All sued in their official)
and individual capacities.)

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioners [REDACTED] and Mohammed Nechla seek the Writ of Habeas Corpus. Mr. [REDACTED] acts on his own behalf and through his Next Friend, [REDACTED], his wife. Mr. Nechla acts on his own behalf and through his Next Friend, [REDACTED], his wife. Petitioners [REDACTED] and Nechla (the "Detained Petitioners") are citizens of Algeria being held *incommunicado* in Respondents' unlawful custody in Delta Camp, Guantánamo Bay Naval Station, Cuba ("Guantánamo Bay").

I. JURISDICTION

2. Petitioners bring this action pursuant to 28 U.S.C. §§ 2241 and 2242. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1651, 2201, and 2202; 5 U.S.C. § 702; as well as the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, and customary international law. Insofar as they seek declaratory relief, Petitioners also rely on Fed. R. Civ. P. 57.
3. This Court has authority under 28 U.S.C. § 2241 to grant the Writ of Habeas Corpus. This Court has authority under 28 U.S.C. § 2242 to entertain the petition filed on Mr. [REDACTED] behalf by [REDACTED] as his Next Friend, and on Mr. Nechla's behalf by [REDACTED] as his Next Friend. Pursuant to 28 U.S.C. § 2201 this Court has authority to declare the rights and other legal relations of the parties herein, and under 28 U.S.C. § 2202 to effectuate and enforce declaratory relief by all necessary and proper means, as this case involves an actual controversy within the Court's jurisdiction.

II. VENUE

4. Venue is proper in the United States District Court for the District of Columbia, since at least one Respondent resides in the district, a substantial part of the events or omissions giving rise to the claim occurred in the district, at least one Respondent may be found in the district, and all Respondents are either officers or employees of the United States or any agency thereof acting in their official capacities. *See* 28 U.S.C. §§ 1391(b); 1391(e).

III. THE PARTIES

A. [REDACTED]

5. Petitioner [REDACTED] is an Algerian citizen incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo Bay. *See Exhibit A*, Affidavit of [REDACTED] [REDACTED] incorporated by reference herein, attached to Affidavit of Stephen H. Oleskey, Esq. ([REDACTED]).
6. Petitioner [REDACTED] is the wife of Petitioner [REDACTED] [REDACTED] Aff. ¶¶ 1-2.) They were married in Albania in October, 1995. (*Id.* ¶ 3.) They have two children together. (*Id.* ¶ 4.) Since Mr. [REDACTED] has been detained, Ms [REDACTED] and the children have faced many difficulties. (*Id.*) She seeks to act as his Next Friend by bringing this Petition.

B. Mohammed Nechla

7. Petitioner Mohammed Nechla is an Algerian citizen presently incarcerated and held in respondents' unlawful custody at Camp Delta, Guantánamo Bay. *See Exhibit B*, Affidavit of [REDACTED] and attachments thereto, incorporated by reference herein, and attached to Affidavit of Stephen H. Oleskey, Esq. ([REDACTED]).
8. Petitioner [REDACTED] is the wife of petitioner Mohammed Nechla. [REDACTED] Aff ¶ 1.) She seeks to act as his Next Friend by bringing this Petition.

C. Respondents

9. Respondent George W. Bush is the President of the United States and Commander in Chief of the Armed Forces of the United States. Mr. [REDACTED] and Mr. Nechla are being detained

pursuant to the Executive Order promulgated by him on November 13, 2001, *see Exhibit C*, Order on Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism, November 13, 2001, attached to Affidavit of Stephen H. Oleskey (“Detention Order”), or alternatively, under his authority as Commander in Chief and under the laws and usages of war. Accordingly, Respondent Bush is responsible for Petitioners’ unlawful detention. He is sued in both his official and personal capacities.

10. Respondent Rumsfeld is the Secretary of the United States Department of Defense. Pursuant to either the Detention Order or the President’s authority as Commander in Chief and under the laws and usages of war, Respondent Rumsfeld has been charged with maintaining the custody and control of the Detained Petitioners. He is sued in both his official and personal capacities.
11. Respondent Hood is the Commander of Joint Task Force-GTMO, which operates the detention facilities at Guantánamo Bay. He has supervisory responsibility for the Detained Petitioners and is sued in both his official and personal capacities.
12. Respondent Cannon is the Commander of Camp Delta at Guantánamo Bay. He is the custodian immediately responsible for their detention, and is sued in both his official and personal capacities.

IV. STATEMENT OF FACTS

A. Petitioners’ Detention

13. The Detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants in any context involving the citizens, government or armed forces of the United States.
14. The Detained Petitioners are not, nor have they ever been, “enemy combatants,” who were “part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who engaged in an armed conflict against the United States there,” *see Hamdi et al. v. Rumsfeld, Secretary of Defense, et al.*, No. 03-6696, slip op. at 8-9 (June 28, 2004) (internal quotations omitted), or anywhere.
15. Petitioners seek a judicial determination of the adequacy of the Respondents’ determination

that the Detained Petitioners are “enemy combatants.”

16. Until shortly before Respondents unlawfully detained him, Petitioner ██████████ had worked for the Red Crescent of the Emirate of Abu-Dhabi since at least 1995. ██████████ Aff. ¶ 3.) The Red Crescent is the arm of the International Federation of Red Cross and Red Crescent Societies, which operates in Islamic countries. See International Federation of Red Cross and Crescent Societies available at <http://www.ifrc.org/who/movement.asp>. In October 2001, at the time of his arrest and detention in Bosnia and Herzegovina (“Bosnia”), Mr. ██████████ had been living and working there for four years. (██████████ Aff. at ¶¶ 5, 6.)
17. Following his arrest, Mr. ██████████ was held in pre-trial detention in Bosnia for three months, but was then ordered released from confinement on January 17, 2002, by the investigating judge of the Supreme Court of Bosnia and Herzegovina, who had determined there were no further reasons or circumstances upon which pre-trial detention could be ordered. See ██████████ et al. v. Bosnia and Herzegovina, et al., Nos. CH/02/8679; CH/02/8689; CH/02/8690; CH/02/8691, H.R. Chamber for Bosnia and Herzegovina, at ¶ 53 (Oct. 11, 2002). See Exhibit D to Affidavit of Stephen Oleskey, Esq. [hereinafter “H.R. Chamber Decision”].
18. Contrary to the judge’s Order, however, Mr. ██████████ was not released, and instead was immediately taken into custody by the Federation Police of Bosnia and Herzegovina under the authority of the Federal Ministry of Interior. *Id.* at ¶ 55. These forces, and forces of the Ministry of the Interior of Sarajevo Canton, then handed over Mr. ██████████ to U.S. forces at 6:00 a.m. on January 18, 2002. *Id.* United States forces then flew Mr. ██████████ out of Bosnia and delivered him to what was then called Camp X-Ray at Guantánamo Bay. *Id.* Ms. ██████████ has not been able to learn since that time why her husband is being held. ██████████ Aff. at ¶ 9.)
19. When he originally was detained, Petitioner Nechla, like Petitioner ██████████, worked for the United Arab Emirates’ Society of the Red Crescent. ██████████ Aff ¶ 5.) He worked as an aid worker, helping orphans. (*Id.*) Mr. Nechla and Ms. ██████████ had lived in Bihartch, Bosnia, for approximately five years. (*Id.* at ¶ 6.)

20. On October 19, 2001, Mr. Nechla was arrested by police in Bihartch, Bosnia. [REDACTED] Aff. ¶ 7.) He was held and interrogated for approximately twenty-four hours. (*Id.*) Mr. Nechla was then held in pre-trial confinement for three months, but then ordered released on January 17, 2002 by the investigative judge of the Supreme Court of Bosnia and Herzegovina, also on the ground that there were no further reasons or circumstances upon which pre-trial detention could be ordered. *See* H.R. Chamber Decision at ¶ 53. Like Petitioner [REDACTED] and in the same fashion, Mr. Nechla was delivered on January 18, 2002 to U.S. forces in Bosnia who transported him to Guantánamo Bay. (*Id.* ¶57.)
21. In the wake of the September 11, 2001 terrorist attacks, the United States, at the direction of Respondent Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized Respondent Bush to use force against the “nations, organizations, or persons” that “planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons.” Authorization for Use of Military Force, Pub. L. 107-40, 115 Stat. 224 (Sept. 18, 2001).
22. On November 13, 2001, Respondent Bush issued an Executive Order authorizing indefinite detention without due process of law (the “Detention Order” referenced top of page 4). The Detention Order authorizes Respondent Rumsfeld to detain anyone Respondent Bush has “reason to believe”:
- i. is or was a member of the organization known as al Qaeda;
 - ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
 - iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Exhibit D to Oleskey Affidavit. Respondent Bush must make this determination in writing. The Detention Order was neither authorized nor directed by Congress, and is beyond the scope

of the Joint Resolution of September 18, 2001.

23. On information and belief, at the time of their detention, Mr. [REDACTED] and Mr. Nechla were (i) not members of the al Qaeda terrorist network; (ii) had not caused any harm to American personnel or property; and (iii) had no involvement in either the terrorist attacks of September 11, 2001, or any act of international terrorism attributed by the United States to al Qaeda or any terrorist group. They are not properly subject to the Detention Order issued by Respondent Bush. As they did not participate in any armed conflict involving the United States or its coalition allies, they are not properly subject to the Executive's authority as Commander in Chief and under the laws and usages of war.
24. Neither Mr. [REDACTED] nor Mr. Nechla was in or near Afghanistan, or any other theater of war, at the time of their unlawful detention on January 18, 2002.
25. Because of the circumstances surrounding their seizure and detention, it is not possible to state whether the Detained Petitioners promptly identified themselves by their correct names and nationality to the forces of the United States, or whether they requested that the United States provide them with access to their families and to legal counsel. On information and belief, Mr. [REDACTED] and Mr. Nechla were both kept blindfolded against their wills for lengthy periods while being taken involuntarily to Guantánamo Bay; have been or will be interrogated repeatedly there by agents of the United States Departments of Defense and Justice, though they have not been charged with any offense or been notified of any pending or contemplated charges; have made no appearance before either a military or civilian tribunal of any sort, or been provided counsel or the means to contact counsel; and have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, press reports indicate Respondents have publicly taken the position that Guantánamo detainees should not be told of such rights. As a result, absent action by this Court, the Detained Petitioners are completely unable either to protect, or to vindicate their rights under domestic

and international law.

B. The Detention Order

26. The Detention Order seeks to vest Respondent Bush with unfettered discretion to identify the individuals that fall within its scope. It establishes no standards governing his discretion. The Detention Order contains no provision requiring notice to a person detained of the charges he may face. On the contrary, the Detention Order purports to authorize that detainees be held without charges. It contains no provision requiring that detainees receive notice of their rights under domestic and international law, and provides neither the right to counsel, nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and does not provide for appeal to an Article III court. In fact, the Detention Order seeks expressly to bar review by any court. The Detention Order purports to authorize indefinite and unreviewable detention, based on nothing more than Respondent Bush's written determination that an individual is subject to its terms.
27. The Detention Order was promulgated in this judicial district, the decision to detain Petitioners was made by Respondents in this judicial district, the decision to detain the Petitioners at Guantánamo Bay was made in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents and in this judicial district.
28. On information and belief, Respondent Bush has never certified or determined, in writing or otherwise, that the Detained Petitioners are subject to this Detention Order.
29. The Detained Petitioners are not properly subject to the Detention Order.
30. In a related case, Respondents have contended that the Petitioners in that case are being detained not pursuant to the Detention Order but rather under the authority of Respondent Bush as Commander in Chief and under the laws and usages of war. *See Rasul v. Bush*, 215 F. Supp. 2d 55 (D.D.C. 2002). However, unlike the petitioner in *Rasul*, the Detained Petitioners in this matter were not arrested or detained by the United States in the course of an armed conflict.

C. Guantánamo Bay Naval Base

31. On or about January 11, 2002, the United States military began transporting prisoners captured

in Afghanistan to Camp X-Ray, at Guantánamo Bay. In April 2002, all prisoners, including the Detained Petitioners, were transferred to a more permanent prison facility at Camp Delta. Guantánamo Bay is a self-sufficient and essentially permanent city with approximately 7,000 military and civilian residents under the complete jurisdiction and control of the United States. Guantánamo Bay occupies nearly thirty-one square miles of land, an area larger than Manhattan, and nearly half the size of the District of Columbia. Offenses committed by both civilians and foreign nationals living at Guantánamo Bay are brought before federal courts on the mainland, where Respondents enjoy the full panoply of Constitutional rights. In *Rasul v. Bush*, decided on June 28, 2004, the U.S. Supreme Court held that the habeas statute §§ 2241–2243, App. 19, confers a right to judicial review of the legality of an indefinite Executive detention of aliens such as these Petitioners at Guantánamo Bay, a territory over which the United States exercises plenary and exclusive jurisdiction but not “ultimate sovereignty.” *Rasul v. Bush*, Nos. 03-334, 03-343, slip op. at 15–16 (June 28, 2004).

V. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF (DUE PROCESS – FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION)

32. Petitioners incorporate paragraphs 1–31 by reference as if fully set forth herein.
33. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of the Detained Petitioners, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the direction of Respondent Bush. The Detention Order violates the Fifth Amendment.

SECOND CLAIM FOR RELIEF
(DUE PROCESS – FIFTH AMENDMENT
TO THE UNITED STATES CONSTITUTION)

34. Petitioners incorporate paragraphs 1 – 33 by reference as if fully set forth herein.
35. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the Detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Detention Order, as applied to Petitioners, violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

36. Petitioners incorporate paragraphs 1 – 35 by reference as if fully set forth herein.
37. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of the Detained Petitioners, without legal process, in violation of binding obligations of the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the Detention Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

38. Petitioners incorporate paragraphs 1 – 37 by reference as if fully set forth herein.
39. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the Detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the

American Declaration on the Rights and Duties of Man. The Detention Order, as applied to the Detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(DUE PROCESS – FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

40. Petitioners incorporate paragraphs 1 – 39 by reference as if fully set forth herein.
41. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons such as the Detained Petitioners seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

SIXTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

42. Petitioners incorporate paragraphs 1 – 41 by reference as if fully set forth herein.
43. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the Detained Petitioners without Congressional authorization.

SEVENTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

44. Petitioners incorporate paragraphs 1 – 43 by reference as if fully set forth herein.
45. To the extent the Detention Order of November 13, 2001, seeks to shield determination of Respondent Bush against any challenge to the legality of the Petitioners' detention by way of habeas corpus, the Detention Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for relief as follows:

1. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of [REDACTED];
2. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Mohammed Nechla;
3. Order the Detained Petitioners released from Respondents' unlawful custody;
4. Order Respondents to allow counsel to meet and confer with the Detained Petitioners, in private and unmonitored attorney-client conversations;
5. Order Respondents to cease all interrogations of the Detained Petitioners, direct or indirect, while this litigation is pending;
6. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Administrative Procedures Act, 5 U.S.C. § 702;
8. Order and declare that the Detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
9. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
10. Order and declare that the Detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
11. Order and declare that the Detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
12. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
13. Order and declare that the provision of the Executive Order that bars the Detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I

of the United States Constitution;

14. To the extent Respondents contest any material factual allegations in this Petition, schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
15. Grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the United States Constitution and international law.

Dated: New York, New York
July 8, 2004

Respectfully submitted,

WILMER CUTLER PICKERING
HALE AND DORR LLP

By:

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* Mr. Herrling appears as local counsel for all attorneys.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 8th day of July, 2004.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 20 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED] USAF
Name

20 Oct 2004
Date

[REDACTED]
Signature

ISN #XXX
Enclosure (5)