

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MOHAMMED FENAITEL MOHAMED )  
AL DAIHANI, *et al.*, )  
Petitioners, )  
v. ) Civil Action No. 04-CV-0828 (CKK)  
UNITED STATES OF AMERICA, *et al.*, )  
Respondents. )  
\_\_\_\_\_ )

**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 Mohammed Fenaitel Mohamed Al Daihani 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 the names and addresses of detainee family members and information that would personally identify 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: 12 Oct 04

  
\_\_\_\_\_  
James R. Crisfield Jr.  
CDR, JAGC, USN



**Department of Defense  
Director, Combatant Status Review Tribunals**

OARDEC/Ser: 0205  
11 October 2004

**FOR OFFICIAL USE ONLY**

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.

J. M. McGARRAH  
RADM, CEC, USN

Distribution:  
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1522

9 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 #8 of 13 September 2004

(2) Record of Tribunal Proceedings

1. A 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 in the course of the Tribunal proceedings.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with the provisions of references (a) and (b). The Tribunal requested the Recorder to gather additional documentary evidence. Those documents were attached to the Record of Proceedings as exhibits R-17 and R-18.

d. The detainee made no requests for witnesses or evidence.

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

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. Although the facts of this case probe the outer limits of the definition of "enemy combatant," the Tribunal did not abuse their discretion. 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



Department of Defense  
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #8

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. Marine Corps Reserve; President

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

[REDACTED], Lieutenant Colonel, JAGC, U.S. Army; Member  
(JAG)

J. M. McGARRAH  
Rear Admiral  
Civil Engineer Corps  
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD  
GUANTANAMO BAY, CUBA  
APO AE 09360

6 October 2004

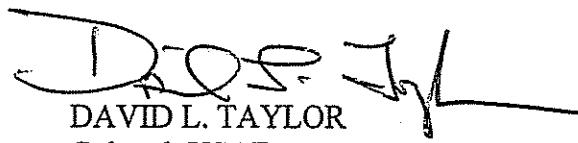
MEMORANDUM FOR DIRECTOR, CSRT

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.

  
DAVID L. TAYLOR  
Colonel, USAF

**(U) Combatant Status Review Tribunal Decision Report Cover Sheet**

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

(U) TRIBUNAL PANEL:     #8    

(U) ISN#:     [REDACTED]    

Ref: (a) (U) Convening Order for Tribunal #8 of 13 September 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)  
(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)

1. (U) This Tribunal was convened on 28 September 2004 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 30 September 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). Absent evidence showing that the Detainee knew his contributions were indirectly funding terrorist organizations, the Tribunal also recommends his case be reviewed by an Administrative Review Board to be considered for release as soon as possible.

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).



Colonel, U.S. Marine Corps  
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL  
DECISION**

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

TRIBUNAL PANEL: \_\_\_\_\_ #8 \_\_\_\_\_

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 was part of, or supporting, al Qaida, which is engaged in hostilities against the United States and its coalition partners. The Tribunal recommends an Administrative Review Board review this Detainee's status as soon as possible to determine appropriateness for release, as is more fully discussed in paragraph 1 to Enclosure (2) to the CSRT Decision Report. 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 on 28 September 2004 indicated that in 2000, the Detainee traveled from Kuwait to Mecca, Saudi Arabia where he met Faisal, an employee of the Sanabal Charitable Committee. This committee is considered to be a fund raising front for the Libyan Islamic Fighting Group (LIFG). On 9 September 2001, the Detainee flew from Kuwait to Karachi, Pakistan where he again met with Faisal and a new individual, Abdul Hakeem. Abdul Hakeem is identified as an employee of the Sanabal Charitable Committee and a major recruiter for the LIFG. The Detainee traveled to numerous places in Afghanistan until he was smuggled into Pakistan. At this time, he was picked up by Pakistani authorities and turned over to the United States. The Detainee's name appeared on a list on a captured hard drive that was associated with a senior al Qaida member. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made an oral, sworn statement. The Detainee, in his oral statement, denied being a member of al Qaida. He addressed all thirteen accusations that were mentioned in the Unclassified Summary of Evidence and a summary of his testimony follows in paragraph 5e below. Additionally, this Tribunal reconvened the classified session on 30 September 2004. The recess was provided to allow time to locate additional data needed to clarify some of the information provided in the classified documents.



### 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-19.
- b. Testimony of the following persons: None.
- c. Sworn statement of the Detainee.

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

The Detainee requested no witnesses or requested additional evidence be produced; therefore, no rulings on these matters were required.

### 5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 and R-2 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, a request from the Federal Bureau of Investigation to redact certain information from the FBI Form 302 or FD 302 was not helpful to the Tribunal in determining whether the Detainee was properly classified as an enemy combatant. The Tribunal therefore found Exhibit R-2 to be without merit.

b. Exhibit R-3 was a copy of a civil complaint filed on behalf of the Detainee by legal counsel in U.S. Federal Court. A cover sheet from the Detainee's legal counsel is dated 8 July 2002. This document was a copy of an "amended complaint" that has been filed for the Detainee in the United States District Court for the District of Columbia by Mubarak F.S.M. al Daihani, the "next friend" of the Detainee. While it illustrated the fact that the Detainee is listed as a plaintiff in a civil case currently pending with the U.S. District Court, it had no bearing on the Detainee's enemy combatant status. The Tribunal therefore found this evidence unpersuasive in making its determinations.

c. Exhibit R-4, Terrorist Organization Reference Guide, January 2004. This guide is a helpful tool because in this case, it provides information on the Libyan Islamic Fighting Group. Additionally it provided a "Terrorist Exclusion List" which showed that the Revival of Islamic Heritage Society's Pakistan and Afghanistan offices are officially designated as terrorist organizations, while the Kuwait office is not. The Detainee is a Kuwaiti national and is presumed to have made his contribution to the Kuwait office of this organization, as the Tribunal saw no evidence to the contrary.

d. Exhibit R-5, Questions for the Family of Muhammad Sihli Al Daihani, undated. This document provided background information on the Detainee but provided little information that was helpful to the Tribunal. It did provide some pictures and contracts of some previous charitable works that the Detainee had arranged to be completed through the Revival of Islamic Heritage Society. In one contract, the Detainee purchased a farm for an orphan village. While interesting, it had little to do with the Detainee's enemy combatant status.

e. The Tribunal also considered the Detainee's sworn testimony, a summarized transcript of which is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he met a man named Faisal when he traveled to Mecca, Saudi Arabia for Hajj. At this time, Faisal talked to the Detainee about the needs of the Afghan people. Faisal encouraged the Detainee to pay for having some wells dug in Afghanistan. Eventually, the Detainee gave Faisal \$2,250 dollars to have five wells dug. The Detainee was encouraged by Faisal to go to Afghanistan to see how the well project was progressing. On 9 September 2001, the Detainee flew to Pakistan where he met with Faisal and a man named Abu Hakeem. They traveled with the Detainee and he arrived in Afghanistan on 10 September 2001. At this time, the Detainee became very ill. The Detainee was hospitalized for 4 to 5 days. After he was released from the hospital, he stated that he was concerned for his safety and only wanted to flee the country. By this time, the borders were closed so he stayed with Faisal and moved from place to place. On or about 15 December 2001, the Detainee then paid someone to smuggle him across the Pakistani border. He had his official passport with him at the time. The Detainee entered a village and the civilians took him to a Pakistani army camp. The Detainee asked to go to his embassy. However, instead of taking him to the embassy, the Detainee was taken to prison and ultimately handed over to the Americans.

The Tribunal 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 requested or deemed necessary.

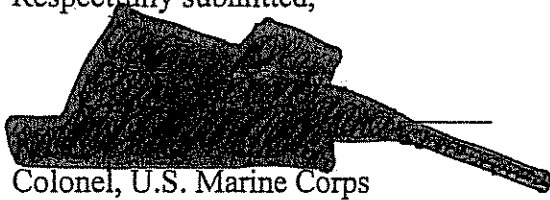
b. The Detainee understood the Tribunal proceedings. He actively participated in the hearing. The Detainee provided an oral statement and answered questions from the Tribunal.

c. The Detainee is properly classified as an enemy combatant and was part of, or supportive of al Qaida, which is engaged in hostilities against the United States and its coalition partners.

**8. Dissenting Tribunal Member's report**

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large, dark, irregularly shaped redaction covers the signature area, obscuring the name and any handwritten notes.

Colonel, U.S. Marine Corps  
Tribunal President

**Summarized Unsworn Detainee Statement**

Detainee: Yes I will answer the accusations against me.

Tribunal President: Do you want to make your statement or replies to any questions under oath?

Detainee: Whatever makes you comfortable, whatever you want.


**Detainee is sworn by the Recorder administering the Muslim oath.**

Detainee: They have presented to me thirteen accusations. And because of these accusations they said that I am associated with Al Qaida. Before addressing these accusations, I will give a background as to what happened to me before that. A summary of what my story is. I was on an official holiday from my job. I had taken approximately two months. In the last two weeks, I was in contact with this individual Faisal who is listed here. To visit Afghanistan and see whether the donation I had given, if it was working or not. I wanted to go there in the first place but I was hesitant. So I went there during the end of my vacation. So I would only stay for a week and see the situation in Afghanistan and see the money that I contributed. It was [for] digging wells. When I left Kuwait on the 9<sup>th</sup> of September, I entered Karachi airport at night. Then I left on a domestic flight to Quetta airport. This is a place on the border with Afghanistan. And afterwards I entered Afghanistan. The morning of Sept 10<sup>th</sup> I was in Afghanistan. Of course the events happened while I was in Afghanistan. I tried to leave after the events. The borders between Pakistan and Iran were closed after a day. This we heard on the world news. I tried to leave Afghanistan, in September, the same month. I couldn't, the borders were closed. I tried a number of times moving from place to place to get out but I could not. So I had a problem because my holiday was only for two weeks and the holiday ended while I was in Afghanistan. So I called my family and I told them and they got a hold of the ministry and they extended my vacation for 3 additional weeks. But I still could not get out. Until about the 15<sup>th</sup> of December, I left through the borders and entered Pakistan. I entered a village. Of course I had my official passport and everything. And there were civilians there and they took me to a camp in Pakistan where the Army was. The Pakistanis told me "We will go with you to your embassy." Of course I asked for my embassy. But they took me to a prison and they handed me over to America. That is a summary of my story.

Detainee: Now I will turn to the accusations in front of me. Honestly I didn't even see them during the interrogations. And they never discussed them with me in the interrogations. Because the accused has a right to discuss what he is being accused of. For example I will go through every point and I will answer every point.

*3a1. The Detainee worked for the Revival of Islamic Heritage Society.*

*3a2. The Revival of Islamic Heritage Society appears on the Terrorist Exclusion List of the U.S. Dept of Homeland Security Terrorist Organization Reference Guide.*

ISN#   
Enclosure (3)  
Page 1 of 12

Detainee: For example the first point. I know the Revival of Islamic Heritage Society; it is an official society from the Kuwaiti government. And it doesn't have any problems inside Kuwait or outside Kuwait. And more than a third of the Kuwaiti people donate to it. Its charity work is all over the world, even in America. But I donated to them; I did not work there. I donated. But I donated to it for some charity work. Maybe my last donation was the end of the nineties, maybe '94. And this Revival of Islamic Heritage Society, donations to it are official, there's paperwork and documentation and it is watched by the Kuwaiti government. My last donation to it was about '94 to '95. But I am surprised that the accusation here is that I worked in it. I did not work in it. I am a government employee. I am also surprised that this society is considered a terrorist organization. Even though I remember that when I left Kuwait, I didn't hear anything about it being a terrorist organization or anything. To summarize, I do not work there. And I donated to it a long time ago about 6 years before the events of September 11<sup>th</sup>. So if it was classified after September 11<sup>th</sup> and I was in Afghanistan, so how can I be judged about something like that? Of course I don't know what happened in Kuwait with this organization if it was shut down or what happened to it. Those are the first two points, 1 and 2.

*3a3. The Detainee's name appeared on a hard drive recovered from a suspected al Qaida safe house in Islamabad, Pakistan.*

Detainee: The third point. This is something also that I was surprised to see when the Personal Representative presented it to me. You say that this is a safe house that is related to Al Qaida and my name is present on the hard drive. I can't say to the American intelligence that you are liars. But I don't know these people and if my name is present on a hard drive, after our detention, we learned that our names are all over the Internet. So if my name is present with any humanitarian organization, or terrorist organization in their computers, or in any place with any intelligence in the world, does that mean that I am a part of them or associated with them? I know that right now, especially we Kuwaitis, our names are all over in computers and places all over. So if it was found in any other place, I'm thought to be part of them or associated with them? It says here that your name was found. It doesn't say anything else, for example was it a letter from me to them, or a passport, document, or anything of mine that they have. I know that the people that they caught after me, they told us that your names and your pictures are present in computers and people have contacted your family members. So I don't know the people who contacted my family or the people who added our names to their lists. So how can I be associated with them just because my name is with them? If my name was present in their computer before my detention, maybe I will be convinced, maybe I will believe, but now after the events our names are all over the world, they are all there. So I know the interrogators did not interrogate me on this issue. I think this is not important, I think if it was important they would have interrogated me. And if this is really true and this really happened and I am associated, I think that the interrogation would have centered a lot around this issue, so they would take information from me about Al Qaida.

I have been here for 2 ½ years and none of these things happened. It's obvious at this point I am innocent of this point. I don't know anything.

*3a4. The Detainee voluntarily traveled from Kuwait to Mecca, Saudi Arabia on Hajj in 2000, where he met Faisal (FNU), an employee of the Sanabal Charitable Committee.*

Detainee: The fourth point, that I traveled to Mecca, yes, I traveled to Mecca and I met this person in the holy mosque. This mosque has many thousands of people inside. There's a lot of Muslims who know each other within that mosque. News being exchanged back and forth. So yes, I did meet that person inside that mosque and he explained to me the situation in Afghanistan. He told that it [Afghanistan] is in need of donations. I read earlier in the Kuwaiti news that there is a shortage of water in the country. He asked me why don't you Kuwaitis bring wells into that place? So I knew when I went back to Kuwait, we're not allowed to go in to that place in Afghanistan. And that is the reason that made me go to Afghanistan. I wanted to go and see for myself.

*3a5. The Sanabal Charitable Committee is considered a fund raising front for the Libyan Islamic Fighting Group.*

Detainee: Point number five, I know that the Sanabal Committee is an official committee. From what I can remember its headquarters is in London. That I told to the interrogators. So I don't know if the Sanabal Charity Committee for the Libyan Group, I don't know. This is information yet from intelligence, I am just an employee. I heard this from my Personal Representative. I don't know, if he knows something and I don't know it, how can I be judged on something I don't know? We deal in our normal lives with many people. But we don't know every personal thing about them. And it's hard for a person to know.

*3a6. The Libyan Islamic Fighting Group is listed as a terrorist organization in the U.S. Department of Homeland Security Terrorist Organization Reference Guide.*

Detainee: The sixth point, that it is listed as a terrorist organization, I don't know this.

*3a7. The Detainee admitted to donating approximately 2, 250 dinars to the Sanabal Charitable Committee.*

Detainee: Point number seven, yes I donated \$2,250. But here they say dinars. In the interrogations I said dollars. The way you are saying it, if you compared it, it's about three times the amount. Dinars is about three times the amount in dollars. If you calculate it in dinars, it would only be about 750 dinars. And this amount we consider it a small amount. So I don't [know] them well so I only gave them a little bit of money. That was for digging wells. I traveled there to make sure of this.

*3a8. The Detainee voluntarily flew from Karachi, Pakistan on 9 September 2001, where he first joined Faisal and Abdul Hakeem.*

Detainee: Point number eight. Yes, that happened and I told them so.

*3a9. Abdul Hakeem was identified as an employee of the Sanabal Charitable Committee.*

*3a10. Hakeem was also identified as a major recruiter for the LIFG*

Detainee: Number nine and ten. I just knew them as normal people. Whether they were part of anything, I couldn't know this and I didn't read this in the news or anything. Maybe if it was in the news someone would know, but it wasn't there.

*3a11. Sometime after 9 September 2001, the Detainee, Faisal and Hakeem traveled to Kandahar, Afghanistan.*

Detainee: Number eleven. It's written that sometime after September 9<sup>th</sup> the Detainee traveled to Kandhar and I told them in the interrogations I traveled before September 9<sup>th</sup>, so they put it here after the 11<sup>th</sup> of September. Of course this is a big difference if they say after it means afterwards I went after the events...but this is not correct. Knowing that I told them that I went there before September 11<sup>th</sup>. They asked me if I would have gone after the events happened and I said no. Big events like this, obviously a person wants to be with his family and his children. I was surprised to see that they wrote after and that is not correct.

*3a12. In December 2001, the Detainee failed at attempts to be smuggled across the Iranian border.*

Detainee: Number twelve. Of course when you read something like this, looking at this, they say September, October, November, he did not leave, why did he leave in December? Of course he was still comfortable in Afghanistan or accepting of the conditions. But I told them just a few days after the events, I tried to escape by way of Iran. I went there and the borders were closed. Same thing that happened in Pakistan, the borders were also closed. Now here they have written December, of course this is a big difference.

*3a13. The Detainee traveled between Kandahar, Kabul, Heart, and Jalalabad, Afghanistan during November/December 2001, before being smuggled into Pakistan, apprehended by Pakistani authorities and turned over to U.S. forces.*

Detainee: The last point, number thirteen. Yes that did happen. But not just in November and December, but in September, October, November, and December. When I left and entered Pakistan, the Pakistani authorities did arrest me. I did not see any soldiers or anything like that. I entered into Pakistan, I entered into the Pakistani villages and civilians living there took me to a camp inside Pakistan to the Pakistani army. I asked for the Kuwaiti ambassador. They told me, "We will go with you to that place."

But unfortunately they sold us for money to Pakistan. And that is the truth, you saw that. Of course they pictured us as terrorists and turned us over to the United States. These points that you accused me of and because of what you said I am a member or associated with Al Qaida, and you see now the difference between the things I told them in the interrogations. And honestly I cannot be sure what is there in my classified file, I cannot be sure that it has additional accusations or information that are incorrect. I mean, I wish I could see these accusations and to answer them, like I answered what is written in front of me.

Tribunal President: As we explained before, we don't have the authority to show the Detainee the classified information. We will take your testimony, your statement today and anything else you provide to us today into consideration very strongly. Does this conclude your statement?

**Personal Representative wants Detainee to comment on his hospital stay.**

Detainee: When I entered Afghanistan, the morning of September 10<sup>th</sup>, I had eaten something. I became very sick, I had severe diarrhea. So I entered a hospital and stayed there for about four days: four days or five days. Afterwards I wanted to leave and I tried to leave to go back to my country but the borders were closed. They told me the borders were closed. I think based on what I heard here, that communications were being heard, being watched between Afghanistan and the rest of the world, because the methods of communication between Afghanistan and the rest of the world is very limited. I think the American intelligence heard my calls to my family or something and they know this. A lot of people who are detained here, some of them, they provided to them their phone calls to their families from Afghanistan. But it wasn't to their advantage. But [it] works to my advantage, these phone calls, because it was me telling my family I was trying to get out of Afghanistan. That's it.

**Personal Representative has no further questions. Recorder has no further questions. Tribunal Members begin questioning.**

Tribunal Member comments to Recorder, "Regarding Exhibit R4, regarding the Revival of Islamic Heritage Society, the exhibit indicates the Kuwait office of this organization is not designated as a terrorist organization. The Detainee is from Kuwait; do you have any comment on this?"

Recorder: No

Tribunal Members: Personal Representative, do you have any comment on this?

Personal Representative: No.

Tribunal Member: How long have you been detained here?



Detainee: I was handed over to the American forces 1 January 2002.

Tribunal Member: You mentioned in your statement that the interrogators have never asked you about why it was your name appeared on the computer hard drive.

Detainee: No, I don't remember anyone telling me this.

Tribunal Member: They must have asked you at one point about your associations with al Qaida?

Detainee: No, they didn't mention al Qaida, they didn't ask me anything about al Qaida, they just said tell me your story. I've been here for 2 years, close to 3 years. I'm in four pictures they have shown me. I told them from the beginning, if there is an accusation against me, tell me the accusation, the Revival of Islamic Heritage Society just once did they ask me, "Did you donate to it?" I said yes, I donated to it. Even I mentioned this in the papers. They asked me about Kuwaiti organizations; just did I know of [them] in a general sense. Even the Revival of Islamic Heritage Society, they didn't ask me about it in great detail. Even if they had asked me about it, I don't know anything specific about it. Only they asked me, "How do you present any project to them?" and I told them how I did it. I signed a contract with them and I gave them the money, and then as an official organization, they draw [up] a contract with the organization in the country they are working in. All official business, you know how it is between nations. When the project [is complete] they just bring me the pictures and everything. That's what I told them.

Tribunal Member: Presuming that your name was really found on the computer hard drive, there must be some reason why this is the case.

Detainee: I swear to God, I don't know. I'm sitting here in Cuba. I don't know anything. But the people that you arrested in that house, I'm sure you will ask these people and get information from them. Ask them why they had my name on there. I cannot think of any reason or explanation why my name was on the computer. Other than what I just told you that our names now are everywhere, they're on many computers. The people that you captured in that place, obviously they know why they have my name.

Tribunal Member: As you sit here today, you truly have no idea why the government thinks you are associated with al Qaida?

Detainee: I saw the reasons that they listed and really they are just not true. As we're sitting here, I'm sure you know the political side to this. For example, in Pakistan, when they turned us over to America, they imagined they were people from al Qaida or terrorists. But after 2 ½ years in the interrogations, they haven't found anything. Either of our governments can attest to this. So I think its normal that they would bring us just any accusation like this. That's why I think there are these accusations.

Tribunal Member: In the packet your family submitted, it indicates you are an educated man, apparently with secure employment prior to this time.

Detainee: Yes.

Tribunal Member: You are an auditor with the government of Kuwait.

Detainee: Yes, I'm an auditor.

Tribunal Member: It indicates here that you have been employed on that position since 1991, is that correct?

Detainee: Exactly from '89, my last job from '91.

Tribunal Member: And your course of study, while in University, was in Accountancy and Auditing?

Detainee: Yes.

Tribunal Member: It was in 2001, August, September time frame that you felt the need to go to Afghanistan to check on the status of your donation?

Detainee: I had the idea from a while ago, but work wouldn't allow it. I said I would wait until summer vacation. At that time in the news there was some threats and stuff going on from Bin Laden. So I was hesitant though most of my vacation had passed and I didn't do anything. When I returned Faisal called me and told me these threats and everything and these had been happening for a number of years, it's nothing. I left and the events happened. My vacation would have ended around October 3<sup>rd</sup>.

Tribunal Member: Did you not know that Afghanistan was in the midst of a civil war and had been for some time?

Detainee: In the Kuwaiti media, some people visited Afghanistan, and they described the situation inside of Afghanistan and the war was in the north of Afghanistan. The situation was better than before; there was peace in most of the cities in Afghanistan. Even this you can verify in the Kuwaiti newspapers, there were newspapers that said this.

Tribunal Member: So you were not concerned for your safety when traveling to Afghanistan?

Detainee: No, I went Afghanistan knowing that the situation was OK. We heard about the Taliban, which was responsible for security in Afghanistan.

Tribunal Member: You said you were an auditor. We often put a bond on our auditors, which means the government checks to make sure you are not a security risk that you are not going to go off with some money. Do they do that in Kuwait?

Detainee: No, we're just accountants, we don't take the money; it's an administrative position. We verify the budgets and so on. We don't take the money. We just look at how the money was spent, was the budget spent correctly or not?

Tribunal Member: So they don't have to do a security check on you to make sure...you have a lot of information about the government when you look at their books.

Detainee: No. its not security, our job doesn't have a lot to do with security. Our reports even go in newspapers.

Tribunal Member: You explained about how you contract a project, and that you had done that previous times, where was this project to be constructed?

Detainee: In this organization, the Revival of Islamic Heritage, it has many branches in Kuwait. In our area there's an office. They have a list of all the countries that are in need of certain projects and they present that list. The list with every project says how much that project costs and how much money is needed. So you say, "I will do this project" for example. For example, a village in Indonesia needs a well or adoption of orphans, or so on. For example, if I say I want to build a mosque in this area: if it costs \$3000, I would sign a contract with the organization and they would sign a contract with an organization in that country that is recognized officially by the government. This organization would be a middleman or a way for me to communicate with the organization in the other country. So for example, I give them \$1000 to start with. After they start, after they finish a phase, and I give them the second installment until it's finished. After it's finished, they offer for me to go see it. We trust the organization and we don't see the need to go see it because the charity says the work is complete.

Tribunal Member: But this particular donation or project you did in Afghanistan, you felt the need to go check on it?

Detainee: There are no Kuwaiti organizations that work inside Afghanistan. That is the reason. The Kuwaiti organizations, you can trust them because they are watched by the government. In Afghanistan, the Kuwaiti organizations said they wouldn't work inside there. [For] Kuwaiti organizations, I would just give them money while I was in Kuwait.

Tribunal Member: This project in Afghanistan that you went to check on, where was it located? Was it in a town?

Detainee: When I entered Afghanistan, the events happened so I wanted to leave, I didn't think of where the project was or anything, I was just trying to leave. You would be surprised, until now, I don't know what happened. I know about the World Trade Center

from the television, what happened there. In Afghanistan, there is no news or anything like that. So for 3 years, we still don't really know what happened, what those events were.

Tribunal Member: Because there were no Kuwaiti organizations that donate money that dealt with Afghanistan, how would the government feel about you donating money to Afghanistan?

Detainee: [The] Kuwaiti government didn't say anything, even the people in the newspaper that went to Afghanistan, it was in the paper, and they didn't say anything. And that official passport is with you right now. It is permissible for me to travel to any country in the world, there's no country I am not allowed to travel to.

Tribunal President: This charitable project in Afghanistan, was it already underway or were you traveling there to get it started?

Detainee: No, I gave the funds in Mecca to dig 5 wells, I considered it be a small project. That was just to start the project and when I went there I would go see it for myself. Like the Kuwaitis who went to Afghanistan and came back and wrote in the newspaper what they had seen.

Tribunal President: So you knew where these projects were located in Afghanistan before traveling?

Detainee: No, I did not.

Tribunal President: Who was going to show you where they were located?

Detainee: The same person I gave the donation to.

Tribunal President: When you left Kuwait and traveled to Pakistan, you traveled alone?

Detainee: Yes, by myself.

Tribunal President: And then from Pakistan to Afghanistan, you had traveling companions?

Detainee: From Karachi to Quetta airport and then I took a car and went to Afghanistan.

Tribunal President: Where in Afghanistan were you going to meet this person you gave the charitable donation to?

Detainee: He greeted me at the airport in Karachi.

Tribunal President: What is his name?

Detainee: Faisal

Tribunal President: That was Faisal?

Detainee: Yes

Tribunal President: Shortly after that, the next day, you got sick and went to the hospital?

Detainee: When we entered Afghanistan, it's true. The next day, it was because of something I ate, I went to the hospital.

Tribunal President: Other than the hospital, where did you stay when you went to Afghanistan?

Detainee; I was moving around; his house was in Kabul. I went to visit Kabul to his house. And then we tried to move from place to place until we went to the Iranian and Pakistani border, it was all movement. I was with him, in his house, his family's house.

Tribunal President: Were he and his family trying to leave as well?

Detainee: Honestly, his family I don't know, he had left his family at that time, his family was in Kabul at the time I was leaving. I went to Kabul in November approximately.

Tribunal President: When you were captured who else was with you when you were captured?

Detainee: A group of people.

Tribunal President: Was Faisal with you?

Detainee: No, I left him in Afghanistan.

Tribunal President: Was Abdul Hakeem with you?

Detainee: No, people I didn't know were with me.

Tribunal President: How many?

Detainee: A group maybe nine or eight.

Tribunal President: Did you have to pay someone to smuggle you in or attempt to smuggle you in Pakistan?

Detainee: Yes, of course. Of course that's necessary.

Tribunal Member: In reviewing the packet your family provided us, we noticed that you received acknowledgements from the Islamic Heritage Society and thanksgiving for your donation, as well as an example of an actual contract itself. On one occasion, it is indicated that the farm you made a donation for was located 70 miles south of the Indonesian capital. Did you not receive a similar acknowledgment for the contract that you executed relating to your donation for Afghanistan?

Detainee: The project in Afghanistan was a very small project. It was about \$450 and five wells. Very small. That's one thing; another thing is the way of this Islamic Heritage Society. It is an official way and it differs from other associations. But this Sanabal Committee, I did not do any official business with them, so I don't know if they work the same way as the Heritage Society with contracts and stuff. I did not continue with them. I would only go see these projects if they really did happen, whether it was true or not. But this all never happened. The events happened and I couldn't do anything.

Tribunal Member: Were you concerned your donation was not being properly used?

Detainee: No, I just wanted to get out. And they felt that they had put me in a compromising situation, until someone comes and sees this and something happens while we were there, the situation didn't allow us to go and say, let's see this.

Tribunal Member: Is this the first time you ever traveled to Afghanistan?

Detainee: Yes.

Tribunal Member: It seems like quite an ordeal to go all the way from Kuwait to Afghanistan for such a small project of \$450.

Detainee: I looked at this as a start to many more projects. This was just for this project that I went to Afghanistan to see if the situation was good. If the committee was good, if I could do more charity work there. Like the Kuwaitis have done there before.

Tribunal President: Mohammed Fenaitel Mohammed Al Daihani, do you have any other information that you would like to present to this tribunal today?

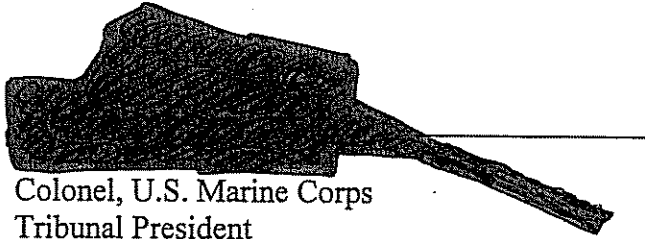
Detainee: No.

**Personal Representative and Recorder have no additional witnesses or evidence.**

Tribunal President: All unclassified evidence having been provided to this tribunal, this concludes the open session of the tribunal.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

A large, dark, irregularly shaped redaction covers the signature area. A thin horizontal line extends from the right side of the redaction.

Colonel, U.S. Marine Corps  
Tribunal President

DETAINEE ELECTION FORM

Date: 25 Sep 04

Start Time: 0755

End Time: 0925

ISN#: [REDACTED]

Personal Representative: [REDACTED] L/COL, USAF  
(Name/Rank)

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

**Detainee Election:**

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

**Personal Representative Comments:**

Detainee will participate

Detainee has no lawyer/legal rep

Denies all allegations

No witness request

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Personal Representative: [REDACTED]



UNCLASSIFIED

**Combatant Status Review Board**

TO: Personal Representative

FROM: OIC, CSRT (22 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL DAIHANI, Mohammed Fenaitel Mohamed.

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 he supported forces engaged in hostilities against the United States or its coalition partners.
  - a. The detainee is associated with al Qaida and provided support to forces engaged in hostilities against the United States or its coalition partners:
    1. The detainee worked for the Revival of Islamic Heritage Society.
    2. The Revival of Islamic Heritage Society appears on the Terrorist Exclusion List of the U.S. Dept. of Homeland Security Terrorist Organization Reference Guide.
    3. The detainee's name appeared on a hard drive recovered from a suspected al Qaida safehouse in Islamabad, Pakistan.
    4. The detainee voluntarily traveled from Kuwait to Mecca, Saudi Arabia on Hajj in 2000, where he met Faisal (LNU), an employee of the Sanabal Charitable Committee.
    5. The Sanabal Charitable Committee is considered a fund raising front for the Libyan Islamic Fighting Group.
    6. The Libyan Islamic Fighting Group is listed as a terrorist organization in the U.S. Dept. of Homeland Security Terrorist Organization Reference Guide.

UNCLASSIFIED

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Exhibit RI

UNCLASSIFIED

7. The detainee admitted to donating approximately 2,250 dinars to the Sanabal Charitable Committee.
  8. The detainee voluntarily flew from Kuwait to Karachi, Pakistan on 9 September 2001, where he joined Faisal and Abdul Hakeem.
  9. Abdul Hakeem was identified as an employee of the Sanabal Charitable Committee.
  10. Hakeem was also identified as a major recruiter for the LIFG.
  11. Sometime after 9 September 2001, the detainee, Faisal and Hakeem traveled to Kandahar, Afghanistan.
  12. In December 2001, the detainee failed at attempts to be smuggled across the Iranian boarder.
  13. The detainee traveled between Kandahar, Kabul, Herat and Jalalabad, Afghanistan during November/December 2001, before being smuggled into Pakistan, apprehended by Pakistani authorities and turned over to US forces.
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.

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Memorandum



To : Department of Defense Date 09/14/2004  
 Office of Administrative Review  
 for Detained Enemy Combatants  
 Col. David Taylor, OIC, CSRT

From : FBI GTMO  
 Counterterrorism Division  
 OSC [REDACTED] 11/14/04

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 marked<sup>1</sup>. The FBI makes this request on the basis that said information relates to the national security of the United States<sup>2</sup>. 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, GTMO:

FD-302 dated 05/14/2002

<sup>1</sup>Redactions are blackened out on the OARDEC provided FBI document.

<sup>2</sup>See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor  
Re: REQUEST FOR REDACTION, 09/14/2004

If you need additional assistance, please contact On  
Scene Commander [REDACTED]  
[REDACTED] or Intelligence Analyst  
[REDACTED]

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PO

R3

# SHEARMAN & STERLING

Washington, D.C.  
801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2604  
Telephone: (202) 508-8000

**FAX NUMBERS**

(202) 508-8100  
(202) 508-8101  
(202) 508-8102

2002 JUL -8 P 5:30

## FAX COVER SHEET

July 8, 2002

Reference No. 33472/2

Fax Recipient(s)				
Name	Firm	Location	Fax Number	Office Phone
Robert Okun	Assistant U.S. Attorney	Washington, D.C.	202-514-8784	202-514-7282

**From**

Name: Katharine Brown  
Telephone: 202-654-4050  
Fax Number: 202-508-8100

Pages transmitted (including cover sheet): 20

**Comments:**

~~Please find a copy of the Amended Complaint filed with the Court today.~~

Please call with any questions.

-Katharine Brown  
Legal Assistant

**Confidentiality Note:** The information transmitted in this facsimile message is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity named above. If the recipient is a client, this message may also be for the purpose of rendering legal advice and thereby privileged. If the reader of this message is not the intended recipient, you are hereby notified that any retention, dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original message to us at the address above via the mail service (we will reimburse postage). Thank you.

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Exhibit R3

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FAWZI KHALID ABDULLAH FAHAD AL ODAH )  
Detainee, Camp X-Ray/Camp Delta )  
Guantanamo Bay Naval Base )  
Guantanamo Bay, Cuba )

KHALED A. F. AL ODAH )  
Next Friend of Fawzi Khalid Abdullah Fahad )  
Al Odah )  
Kuwait )

OMAR RAJAB AMIN, )  
Detainee, Camp X-Ray/Camp Delta )  
Guantanamo Bay Naval Base )  
Guantanamo Bay, Cuba )

MOHAMMAD R. M. R. AMEEN )  
Next Friend of Omar Rajab Amin )  
Kuwait )

No. CV 02-0828 (CKK)

NASSER NIJER NASER AL MUTAIRI )  
Detainee, Camp X-Ray/Camp Delta )  
Guantanamo Bay Naval Base )  
Guantanamo Bay, Cuba )

NAYEF N.N.B.J. AL MUTAIRI )  
Next Friend of Nasser Nijer Naser Al Mutairi )  
Kuwait )

KHALID ABDULLAH MISHAL AL MUTAIRI )  
Detainee, Camp X-Ray/Camp Delta )  
Guantanamo Bay Naval Base )  
Guantanamo Bay, Cuba )

MESHAL A.M. TH AL MUTAIRI )  
Next Friend of Khalid Abdullah Mishal )  
Al Mutairi )  
Kuwait )

ABDULLAH KAMAL ABDULLAH KAMAL )  
AL KANDARI )  
Detainee, Camp X-Ray/Camp Delta )  
Guantanamo Bay Naval Base )  
Guantanamo Bay, Cuba )

MANSOUR K.A. KAMEL )  
 Next Friend of Abdullah Kamal Abdullah )  
 Kamal Al Kandari )  
 Kuwait )  
 )  
 ABDULAZIZ SAYER OWAIN AL SHAMMARI )  
 Detainee, Camp X-Ray/Camp Delta )  
 Guantanamo Bay Naval Base )  
 Guantanamo Bay, Cuba )  
 )  
 SAYER O.Z. AL SHAMMARI )  
 Next Friend of Abdulazziz Sayer Owain )  
 Al-Shammari )  
 Kuwait )  
 )  
 ----- )  
 ABDULLAH SALEH ALI AL AJMI )  
 Detainee, Camp X-Ray/Camp Delta )  
 Guantanamo Bay Naval Base )  
 Guantanamo Bay, Cuba )  
 )  
 ----- )  
 MESFER SALEH ALI AL AJMI )  
 Next Friend of Abdullah Safeh Ali Al Ajmi )  
 Kuwait )  
 )  
 MOHAMMED FUNAITEL AL DIHANI )  
 Detainee, Camp X-Ray/Camp Delta )  
 Address Unknown )  
 )  
 ----- )  
 MUBARAK F.S.M. AL DAIHANI )  
 Next Friend of Mohammed Funaitel Al Dihani )  
 Kuwait )  
 )  
 FAYIZ MOHAMMED AHMED AL KANDARI )  
 Detainee, Camp X-Ray/Camp Delta )  
 Address Unknown )  
 )  
 MOHAMMAD A.J.M.H. AL KANDARI )  
 Next Friend of Fayiz Mohammed Ahmed )  
 Al Kandari )  
 Kuwait )  
 )  
 FWAD MAHMOUD AL RABIAH )  
 Detainee, Camp X-Ray/Camp Delta )  
 Address Unknown )  
 )

MONZER M.H.A. AL RABIEAH )  
Next Friend of Fwad Mahmoud Al Rabiah )  
Kuwait )

ADIL ZAMIL ABDULL MOHSSIN AL ZAMIL )  
Detainee, Camp X-Ray/Camp Delta )  
Address Unknown )

WALID Z.A. AL ZAMEL )  
Next Friend of Adil Zamil Abdull Mohssin )  
Al Zamil )  
Kuwait )

SAAD MADAI SAAD HAWASH AL-AZMI )  
Detainee, Camp X-Ray/Camp Delta )  
Address Unknown )

HAMAD MADAI SAAD )  
Next Friend of Saad Madai Saad Hawash )  
Al Azmi )  
Kuwai )

Plaintiffs,

v.

UNITED STATES OF AMERICA,

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

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

GENERAL RICHARD B. MYERS )  
Chairman, Joint Chiefs of Staff )  
9999 Joint Chiefs of Staff Pentagon )  
Washington, D.C. 20318-9999 )



BRIGADIER GENERAL RICK BACCUS, )  
 Commander, Joint Task Force-160 )  
 Guantanamo Bay Naval Base )  
 Guantanamo Bay, Cuba )  
 )  
 COLONEL TERRY CARRICO )  
 Commander, Camp X-Ray/Camp Delta )  
 Guantanamo Bay Naval Base )  
 Guantanamo Bay, Cuba, )  
 )  
 Defendants. )  
 )

---

AMENDED COMPLAINT

This is a civil action brought by 12 Kuwaiti nationals (the "Kuwaiti Detainees") who are being detained in the custody of the United States at the Guantanamo Bay Naval Base, Guantanamo Bay, Cuba ("Guantanamo"), and by 12 of their family members (the "Family Members") who are also Kuwaiti nationals and who speak on their behalf. The Kuwaiti Detainees have been held virtually *incommunicado* since as early as January 11, 2002. Although the Secretary of Defense was authorized by the President in the President's Military Order of November 13, 2001, to detain non-citizens if the President has made a written determination that there is reason to believe they are or were members of al Qaida, or engaged in terrorist acts against the United States, the President has made no such determination with respect to the Kuwaiti Detainees.

Plaintiffs do not seek release from confinement in this Amended Complaint. Rather, they seek modest but essential relief while they are being detained and interrogated by defendants. They seek the right to (1) meet with their families, (2) be informed of any charges against them, (3) be able to consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal. These are fundamental rights of due process guaranteed to detainees under the Fifth Amendment to the Constitution and customary international law. The grant of

this limited relief will not interfere in any way with the ability of the United States to conduct its essential war against terrorism or to determine who was responsible for the horrible acts of September 11, 2001, and to bring those individuals to justice.

**I.  
JURISDICTION AND VENUE**

1. The Court has subject matter jurisdiction of this civil action under 28 U.S.C. §§ 1331, 1350, and 1361. A cause of action exists under the Constitution, 5 U.S.C. § 702, 28 U.S.C. §§ 1350, 2241-2243, and the laws of nations and treaties of the United States. To the extent immunity to this suit may be asserted by defendants, that immunity is waived by 5 U.S.C. § 702. The Court is authorized to grant the relief requested by plaintiffs under 5 U.S.C. § 706, and 28 U.S.C. §§ 1350, 1361, 1651, 2201, 2202, and 2241-2243.

2. Venue lies in this Court under 28 U.S.C. §§ 1391(b), (e).

**II.  
PARTIES**

3. Plaintiffs Fawzi Khalid Abdullah Fahad Al Odah, Omar Rajab Amin, Nasser Nijer Naser Al Mutairi, Khalid Abdullah Mishal Al Mutairi, Abdullah Kamal Abdullah Kamal Al Kandari, Abdulaziz Sayer Owain Al Shammari, Abdullah Saleh Ali Al Ajmi, Mohammed Funaitel Al Dihani, Fayiz Mohammed Ahmed Al Kandari, Fwad Mahmoud Al Rabiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Alzmi (the "Kuwaiti Detainees") are Kuwaiti nationals who are detained under the custody of the United States at Guantanamo.

4. Plaintiff Khaled A.F. Al Odah is a Kuwaiti national and the father of plaintiff Fawzi Khalid Abdullah Fahad Al Odah; plaintiff Mohammad R.M.R. Ameen is a Kuwaiti national and the brother of plaintiff Omar Rajab Amin; plaintiff Nayef N.N.B.J. Al Mutairi is a Kuwaiti national and the brother of plaintiff Nasser Nijer Naser Al Mutairi; plaintiff Meshal A.M.TH Al

Mutairi is a Kuwaiti national and the brother of plaintiff Khalid Abdullah Mishal Al Mutairi; plaintiff Mansour K.A. Kamel is a Kuwaiti national and the brother of plaintiff Abdullah Kamal Abdullah Kamal Al Kandari; plaintiff Sayer O.Z. Al Shammari is a Kuwaiti national and the father of plaintiff Abdulaziz Sayer Owain Al Shammari; plaintiff Mesfer Saleh Ali Al Ajmi is a Kuwaiti national and the brother of Abdullah Saleh Ali Al Ajmi; plaintiff Mubarak F.S.M. Al Daihani is a Kuwaiti national and the brother of plaintiff Mohammed Funaitel Al Dihani; plaintiff Mohammad A.J.M.H. Al Kandari is a Kuwaiti national and the father of plaintiff Fayiz Mohammed Ahmed Al Kandari; plaintiff Monzer M.H.A. Al Rabi'ah is a Kuwaiti national and the brother of plaintiff Fwad Mahmoud Al Rabi'ah; plaintiff Walid Z.A. Al Zamel is a Kuwaiti national and the brother of plaintiff Adil Zamil Abdull Mohssin Al Zamil, and plaintiff Hamad Madai Saad is a Kuwaiti national and the brother of plaintiff Saad Madai Saad Al-Azmi. The plaintiffs other than the Kuwaiti Detainees are referred to as the Family Members.

5. Defendant George W. Bush is the President of the United States; defendant Donald H. Rumsfeld is the Secretary of Defense; defendant General Richard B. Myers is the Chairman of the Joint Chiefs of Staff; defendant Brigadier General Rick Baccus is the Commander of Joint Task Force-160, which is responsible for the detention operation at Guantanamo; defendant Colonel Terry Carrico is the Commandant of Camp X-Ray/ Camp Delta at Guantanamo and the custodian of the detainees at Guantanamo. They are sued in their official and individual capacities. The Executive Branch of the United States Government, designated as the United States of America, is also a defendant.

III.  
FACTS

The Terrorist Attacks of September 11, 2001

6. On September 11, 2001, terrorists struck the United States, hijacking four airplanes and flying three of them into the twin towers of the World Trade Center in New York City and the Pentagon, killing thousands of innocent people. Soon after this terrorist attack, the United States Government identified the terrorists as members of the al Qaida terrorist organization.

7. In the wake of the terrorist attack of September 11, 2001, President Bush launched a military campaign against al Qaida headquartered in Afghanistan and supported by the Taliban Regime. On September 18, 2001, Congress adopted a Joint Resolution that authorized the President 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." Joint Resolution 23, Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224. The United States' military campaign against al Qaida and the Taliban is being conducted in cooperation with other nations, including Pakistan, as well as a coalition of Afghani groups known as the Northern Alliance, which opposes the Taliban.

8. On information and belief, some members and supporters of al Qaida and the Taliban have attempted to hide from the United States and its allies during the military campaign in dispersed areas of Afghanistan and Pakistan. On information and belief, the United States and its allies have encouraged local authorities in Afghanistan and Pakistan to assist in the location, identification, and apprehension of these al Qaida and Taliban members and supporters.

**President Bush's Military Order of November 13, 2001**

9. On November 13, 2001, President Bush issued the Military Order of November 13, 2001, entitled "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism" (the "Military Order"). 66 Fed. Reg. 57,831 (Nov. 16, 2001).

10. Section 1 of the Military Order recites "Findings" about the terrorist attacks of September 11, 2001, including a finding that "it is necessary for individuals subject to this order \* \* \* to be detained."

11. In section 2(a) of the Military Order, President Bush defines the term "individual subject to this order" to mean "any individual who is not a United States citizen with respect to whom I determine from time to time in writing that":

(1) there is reason to believe that such individual, at the relevant times,

(i) is or was a member of the organization known as al Qaida;

(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) or (ii) of subsection 2(a)(1) of this order, and

(2) it is in the interest of the United States that such individual be subject to this order.

12. Section 2(b) of the Military Order declares that "[i]t is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4."

13. Section 3 of the Military Order provides that "[a]ny individual subject to this order shall be (a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States."

#### **Seizure of the 12 Kuwaiti Detainees**

14. On information and belief, the Family Members allege that the Kuwaiti Detainees were in Afghanistan or Pakistan, some before and some after September 11, 2001, as volunteers for charitable purposes to provide humanitarian aid to the people of those countries, such as assisting in developing potable water sources, working in hospitals, and arranging for the sponsorship of orphans. There is a long tradition of such volunteer service by Kuwaiti nationals in countries of crisis worldwide, including Afghanistan and Pakistan. Such volunteer service is encouraged by the Kuwaiti Government and Kuwaiti employers. One aspect of the Kuwaiti Government support of volunteer service is by continuing to pay the salaries of its Kuwaiti employees while they are engaged in such volunteer service abroad.

15. On information and belief, the Family Members allege that none of the Kuwaiti Detainees is or ever has been a combatant or belligerent against the United States, or a member or supporter of al Qaida or the Taliban, or a member of any terrorist organization, and that none of the Kuwaiti Detainees has ever engaged in or supported any terrorist or hostile act against the United States. None of the Family Members has ever engaged in or supported any terrorist or hostile act against the United States, and on information and belief the Family Members allege that no other member of their families has ever engaged in or supported any terrorist or hostile act against the United States.

16. On information and belief, the Family Members alleged that the Kuwaiti Detainees were seized against their will in Afghanistan or Pakistan after September 11, 2001, by local

villagers seeking promised bounties or other financial rewards, and that, subsequently, they were taken into custody by the United States. Several of the families of the Kuwaiti Detainees received letters from several of the Kuwaiti Detainees after they were taken into custody by the United States expressing the sentiment: "Thank God I am now with the Americans," and a confidence that they would soon be able to return home to their families.

#### United States' Detention of the Kuwaiti Detainees

17. President Bush has not determined in writing that there is reason to believe that, at the relevant times, any of the Kuwaiti Detainees is or was a member of the organization known as al Qaida, or has engaged in any of the acts described in section 2 of the Military Order, or that it is in the interest of the United States that any of the Kuwaiti Detainees be subject to the Military Order.

18. None of the other defendants has stated publicly or informed plaintiffs why or on what basis the Kuwaiti Detainees are being detained. None of the defendants has stated publicly or informed plaintiffs that the Kuwaiti Detainees are enemy combatants or belligerents against the United States.

19. William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, sent a letter dated March 25, 2002, to the Ministry of Foreign Affairs of Kuwait, stating that plaintiff Fawzi Khalid Abdullah Fahad Al Odah has been in detention under United States custody at Guantanamo since February 13, 2002; plaintiff Omar Rajab Amin has been in detention under United States custody at Guantanamo since January 11, 2002; plaintiff Nasser Nijer Naser Al Mutairi has been in detention under United States custody at Guantanamo since February 7, 2002; plaintiff Khalid Abdullah Mishal Al Mutairi has been in detention under United States custody at Guantanamo since February 9, 2002; plaintiff Abdullah Kamal

Abdullah Kamal Al Kandari has been in detention under United States custody at Guantanamo since February 11, 2002; and plaintiff Abdulaziz Sayer Owain Al Shammari has been in detention under United States custody at Guantanamo since February 9, 2002.

20. The family of plaintiff Abdullah Saleh Ali Al Ajmi received a letter from him dated February 28, 2002, mailed from Guantanamo on March 1, 2002, which indicates that he is in detention under United States custody at Guantanamo.

21. On May 6, 2002, a Kuwaiti attorney representing the Family Members was informed by the Government of Kuwait that it received written confirmation from the United States Government that plaintiffs Fayiz Mohammed Ahmend Al Kandari, Fwad Mahmoud Al Rabiah, Adil Zamil Abdull Mohssin Al Zamil, and Saad Madai Saad Al-Azmi are in detention under custody of the United States at Guantanamo. No confirmation has been received to date concerning plaintiff Mohammed Funaitel Al Dihani.

22. On April 3, 2002, Abdul Rahman R. Al-Haroun, a Kuwaiti attorney retained by the families of the Kuwaiti Detainees, received from the Government of Kuwait a copy of the letter referred to in paragraph 19, from William T. Monroe, Deputy Chief of Mission of the Embassy of the United States in Kuwait, to the Ministry of Foreign Affairs of Kuwait.

23. On April 6, 2002, Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah, representing the families of the Kuwaiti Detainees, met at the United States Embassy in Kuwait with Andrew Morrison, First Secretary and Head of the Political Section of the Embassy, and Yousef Khalil, a political specialist at the Embassy. Plaintiff Khaled A.F. Al Odah had previously submitted to the United States Embassy a list containing the names of ten of the 12 plaintiff Kuwaiti Detainees, seeking information about them. At the time of the meeting, plaintiff Khaled A.F. Al



Odah did not have information that plaintiffs Adil Zamil Abdull Mohssin Al Zamil and Saad Madai Saad Al-Azmi were in the custody of the United States.

24. During the meeting of April 6, Mr. Al-Haroun and plaintiff Khaled A.F. Al-Odah asked Mr. Morrison and Mr. Khalil to provide them with information about the ten Kuwaiti Detainees on the list previously submitted by plaintiff Khaled A.F. Al Odah. Specifically, they asked Mr. Morrison and Mr. Khalil to confirm that these ten Kuwaiti Detainees were in the custody of the United States; to identify the location of their detention; to provide their families with the opportunity to contact and meet with them; to advise whether any of them were being accused of wrongdoing, and if not, why they were not being released; and, if any of the ten were being investigated, to grant them access to counsel of their choice and conditional release during the pendency of the investigation.

25. At the meeting of April 6, Mr. Morrison and Mr. Khalil did not provide Mr. Al-Haroun and plaintiff Khaled A.F. Al Odah with any information about the ten plaintiff Kuwaiti Detainees on the list submitted by plaintiff Khaled A.F. Al Odah, and would neither confirm nor deny that any of those Kuwaiti Detainees were in the custody of the United States. However, Mr. Morrison said he would take Mr. Al-Haroun's and plaintiff Khaled A.F. Al Odah's requests under consideration, consult with others, and provide them with a reply.

26. Mr. Al-Haroun and plaintiff Khaled A.F Al Odah have not received any reply to their requests from Mr. Morrison or Mr. Khalil or from anyone else at the United States Embassy in Kuwait or in the United States Government.

27. Counsel for plaintiffs have been told by the Defense Department that, to maintain "force protection," the Defense Department has adopted a policy not to disclose the identities of, or other information about, specific individuals detained by the United States to their families or

representatives. Counsel for plaintiffs further have been told by the Defense Department that the United States is making such disclosures only to the governments of the countries in which those individuals are nationals.

28. The Family Members have not been permitted to meet with the Kuwaiti Detainees.

29. On information and belief, the Family Members allege that the Kuwaiti Detainees have not been informed of the charges, if any against them; they have not been granted the right to designate or consult with counsel of their choice; and they have not been granted access to the courts or any other impartial tribunal during their detention.

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### Guantanamo

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30. ~~Under the Lease of Lands for Coaling and Naval Stations, Feb. 16-23, 1903, U.S.-~~

Cuba, T.S. No. 418, 6 Bevans 1113, as extended by the Treaty on Relations with Cuba, May 29, 1934, U.S.-Cuba, art. III, 48 Stat. 1682, 1683, T.S. No. 866, although the United States recognizes the sovereignty of Cuba over Guantanamo, "the Republic of Cuba consents that \* \* \* the United States shall exercise complete jurisdiction and control over and within" Guantanamo during the lease. The United States has occupied Guantanamo Bay since 1903, and has repeatedly declared its intention to remain there indefinitely.

31. According to the Office of Legal Counsel of the Department of Justice, "the Guantanamo Base would constitute land 'acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof.' Accordingly, it would appear to come within [18 U.S.C.] § 7's definition of land 'within the special maritime and territorial jurisdiction of the United States.'" 6 Op. O.L.C. 236, 1982 OLC LEXIS 58 (Mar. 29, 1982). Consistent with this opinion, criminal prosecutions under Title 18 of the United States Code of civilians and aliens who commit offenses at Guantanamo are triable exclusively in mainland United States courts.

*See, e.g., United States v. Chambers*, 940 F.2d 653 (4<sup>th</sup> Cir. 1991), unpublished opinion available at No. 90-5664, 1991 WL 137232 (July 29, 1991); *United States v. Lee*, 906 F.2d 117, 117 n. 1 (4<sup>th</sup> Cir. 1990); *United States v. Rogers*, 388 F. Supp. 298, 301 (E.D. Va. 1975). *See also* 25 Op. Atty. Gen. 157 (1904) (Guantanamo Naval Station "is practically a part of the Government of the United States").

32. The United States Navy has described Guantanamo as "a Naval reservation which, for all practical purposes, is American territory. Under the [lease] agreements, the United States has for approximately [ninety] years exercised the essential elements of sovereignty over this territory, without actually owning it. Unless we abandon the area or agree to a modification of the terms of our occupancy, we can continue in the present status as long as we like. [According to the United States p]ersons on the reservation are amenable only to United States legislative enactments." *See The History of Guantanamo Bay: An Online Edition* (1964), available at <http://www.nsgtmo.navy.mil/history.htm>.

#### **Defendants' Statements About Detention at Guantanamo**

33. According to a "Fact Sheet" issued by the White House on February 7, 2002, President Bush has determined that the principles of the Third Geneva Convention of 1949 apply to the treatment of the "Taliban detainees" at Guantanamo, but not to the "al Qaida detainees" at Guantanamo. However, the President has determined that neither the "Taliban detainees" nor the "al Qaida detainees" will be accorded prisoner-of-war status.

34. Defendants have not publicly disclosed or informed plaintiffs whether any of the Kuwaiti Detainees are "Taliban detainees" or "al Qaida detainees," as those terms are used in the White House "Fact Sheet" of February 7, 2002.

35. In a radio interview on February 27, 2002, Secretary Rumsfeld said with respect to the approximately 300 detainees at Guantanamo: "[T]hey have all now, except for one or two, been questioned and interrogated, looking for intelligence information so that we could stop other terrorist threats, people from attacking our country and our friends and allies and our deployed forces," and that "[w]e're now starting the process of doing a series of interrogations that involve law enforcement. That is to say to determine exactly what these individuals have done. Not what they know of an intelligence standpoint, but what they've done from a law enforcement standpoint. That process is underway." United States Department of Defense

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News Transcript, Rumsfeld Interview with KTSP-ABC, St. Paul, Minnesota, February 27, 2002, p. 2. Secretary Rumsfeld continued that the detainees "will fall into four or five baskets. One is if we find that someone's an innocent and shouldn't have been brought there, why they would be released." *Id*

36. In a Pentagon news briefing on March 28, 2002, Secretary Rumsfeld said with respect to the detainees at Guantanamo: "The fact is that the first people we brought down were in fact the hardest of the hard core, because we wanted to get them out of the Kandahar and Bagram facilities. Now we have brought down a large portion of the people, and now it is [a] mix, and they vary. They run pretty much across the spectrum. It seems to me that that being the case one can expect that what will happen will be exactly what I said: that some may be transferred to other countries, some may be released, some may be held for the duration, some may be tried in one or more of the various mechanisms that are available -- the United States criminal justice system, military commissions, or the Uniform Code of Military Justice. \* \* \* I think the better way to look at it is not at that group of people in the aggregate, but as I've

indicated, individually." United States Department of Defense, News Transcript, DoD News Briefing – Secretary Rumsfeld and Gen. Myers, March 28, 2002, pp. 3, 4.

**IV.  
CLAIMS FOR RELIEF**

Based on the allegations in paragraphs 1 through 36, plaintiffs claim:

**First Claim: Denial of Due Process – Violation of the Fifth Amendment**

37. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have denied and are denying the Kuwaiti Detainees fundamental due process, in violation of the Due Process Clause of the Fifth Amendment to the Constitution.

**Second Claim: Tortious Conduct Within the Meaning of the Alien Tort Claims Act**

38. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary detention, which is tortious conduct in violation of the law of nations and a treaty of the United States, and actionable under the Alien Tort Claims Act, 28 U.S.C. § 1350.

**Third Claim: Arbitrary and Unlawful Conduct --Violation of APA**

39. By refusing to permit the Kuwaiti Detainees in Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, even

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during law enforcement interrogations which may lead to criminal proceedings against them, defendants have engaged and are engaging in arbitrary, unlawful, and unconstitutional conduct, in violation of the Administrative Procedure Act, 5 U.S.C. §§ 555, 702, 706.

V.  
**PRAYER FOR RELIEF**

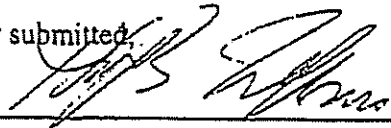
Based on the allegations in paragraphs 1 through 39, plaintiffs pray for the following relief:

40. A preliminary and permanent injunction, enjoining defendants from refusing to permit the Kuwaiti Detainees at Guantanamo to (1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements.

41. A declaration that defendants' refusal to permit the Kuwaiti Detainees at Guantanamo to 1) meet with their families, (2) be informed of the charges, if any, against them, (3) designate and consult with counsel of their choice, and (4) have access to the courts or some other impartial tribunal, subject to reasonable national security and safety requirements, is a violation of the Due Process Clause of the Fifth Amendment to the Constitution, tortious conduct under the Alien Tort Claims Act, and arbitrary, unlawful, and unconstitutional conduct in violation of the Administrative Procedure Act.

42. Reasonable attorneys' fees and the costs of this action, and such other and further relief as the Court may deem necessary or appropriate.

Respectfully submitted,



Thomas B. Wilner (D.C. Bar #173807)  
Neil H. Koslowe (D.C. Bar #361792)  
Kristine A. Huskey (D.C. Bar #462979)  
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Attorneys for Plaintiffs

Dated: July 8, 2002

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FAWZI KHALID ABDULLAH FAHAD AL ODAH, )  
*et al.*, )

Plaintiffs, )

v. )

UNITED STATES OF AMERICA, et al., )

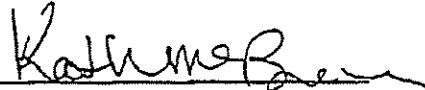
Defendants. )

No. CV 02-0828 (CKK)

**CERTIFICATE OF SERVICE**

I certify that today, July 8, 2002, I served Plaintiffs' Amended Complaint upon  
defendants by causing a copy to be mailed by first-class mail, postage prepaid, and by causing a  
copy to be transmitted by facsimile, to defendants' counsel of record:

Roscoe C. Howard, Jr.  
United States Attorney  
Robert Okun  
Assistant United States Attorney  
Room 11-858  
555 Fourth Street, N.W.  
Washington, D.C. 20530

  
Katherine Brown  
Legal Assistant



A-2  
A-6



**U.S. Department of Homeland Security  
U.S. Customs and Border Protection  
Office of Border Patrol**

**NOTE:** This report is based upon information obtained from various open sources. No classified information was used in the preparation of this report.

Office of Border Patrol  
1624 SSG Sims Road,  
AFB, TX 79908  
Address: Attn. BPSCC P.O. Box 6017  
Fort Worth, Texas 79906  
Lieutenant D. Thew  
Phone: (817) 724-3218

**Terrorist Organization  
Reference Guide**

January 2004

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including US citizens. Several of the arrested militants have reportedly undergone military training in Afghanistan, and some fought with the Afghan mujahidin during the war against the former Soviet Union. Others are alleged to have ties to Islamic extremist organizations in Indonesia and the Philippines.

### **Strength**

Malaysian police assess the KMM to have 70 to 80 members. The Malaysian police continued to investigate more than 200 suspected Muslim militants throughout 2002.

### **Location/Area of Operation**

The KMM is reported to have networks in the Malaysian states of Perak, Johor, Kedah, Selangor, Terengganu, and Kelantan. They also operate in Wilayah Persukutuan, the federal territory comprising Kuala Lumpur. According to press reports, the KMM has ties to radical Indonesian Islamic groups and has sent members to Ambon, Indonesia, to fight against Christians.

### **External Aid**

Largely unknown, probably self-financing.

## **59. Libyan Islamic Fighting Group**

**a.k.a. Al-Jam'a al-isiamiyyah al-Muqatilah, Fighting Islamic Group, Libyan Fighting Group, Libyan Islamic Group**

### **Description**

Emerged in 1995 among Libyans who had fought against Soviet forces in Afghanistan. Declared the government of Libyan leader Muammar Qadhafi un-Islamic and pledged to overthrow it. Some members maintain a strictly anti-Qadhafi focus and organize against Libyan Government interests, but others are aligned with Usama Bin Ladin's al-Qaeda organization or are active in the international mujahidin network. The group was designated for asset freeze under E.O.13224 and UNSCR 1333 in September 2001.

### **Activities**

Claimed responsibility for a failed assassination attempt against Qadhafi in 1996 and engaged Libyan security forces in armed clashes during the mid-to-late 1990s. Continues to target Libyan interests and may engage in sporadic clashes with Libyan security forces.

### **Strength**

Not known but probably has several hundred active members or supporters.

**Terrorist Exclusion List**

## Terrorist Exclusion List<sup>3</sup>

Section 411 of the USA PATRIOT ACT of 2001 (8 U.S.C. § 1182) authorized the Secretary of State, in consultation with or upon the request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the "Terrorist Exclusion List (TEL)" authority. A TEL designation bolsters homeland security efforts by facilitating the USG's ability to exclude aliens associated with entities on the TEL from entering the United States.

### Designation Criteria

An organization can be placed on the TEL if the Secretary of State finds that the organization:

- commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- prepares or plans a terrorist activity;
- gathers information on potential targets for terrorist activity; or
- provides material support to further terrorist activity.

Under the statute, "terrorist activity" means any activity that is unlawful under U.S. law or the laws of the place where it was committed and involves: hijacking or sabotage of an aircraft, vessel, vehicle or other conveyance; hostage taking; a violent attack on an internationally protected person; assassination; or the use of any biological agent, chemical agent, nuclear weapon or device, or explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property. The definition also captures any threat, attempt, or conspiracy to do any of these activities.

### Designation Process

The Secretary of State is authorized to designate groups as TEL organizations in consultation with, or upon the request of the Attorney General. Once an organization of concern is identified, or a request is received from the Attorney General to designate a particular organization, the State Department works closely with the Department of Justice and the intelligence community to prepare a detailed "administrative record," which is a compilation of information, typically including both classified and open sources information, demonstrating that the statutory criteria for designation have been satisfied. Once completed, the administrative record is sent to the Secretary of State who decides whether to designate the organization. Notices of designations are published in the Federal Register.

## Effects of Designation

### Legal Ramifications

Individual aliens providing support to or associated with TEL-designated organizations may be found "inadmissible" to the U.S., i.e., such aliens may be prevented from entering the U.S. or, if already in U.S. territory, may in certain circumstances be deported. Examples of activity that may render an alien inadmissible as a result of an organization's TEL designation include:

- membership in a TEL-designated organization;
- use of the alien's position of prominence within any country to persuade others to support an organization on the TEL list;
- solicitation of funds or other things of value for an organization on the TEL list;
- solicitation of any individual for membership in an organization on the TEL list; and
- commission of an act that the alien knows, or reasonably should have known, affords material support, including a safe house, transportation,
- communications, funds, transfer of funds or other material for financial benefit, false documentation or identification, weapons (including chemical,
- biological, or radiological weapons), explosives, or training to an organization on the TEL list.

(It should be noted that individual aliens may also found inadmissible on the basis of other types of terrorist activity unrelated to TEL-designated organizations; see 8 U.S.C. §1182(a)(3)(B).)

### Other Effects

1. Deters donation or contributions to named organizations.
2. Heightens public awareness and knowledge of terrorist organizations.
3. Alerts other governments to U.S. concerns about organizations engaged in terrorist activities.
4. Stigmatizes and isolates designated terrorist organizations.

### Background

On December 5th, 2001 Secretary of State Colin Powell, in consultation with the Attorney General designated the following organizations, thereby placing them on the Terrorist Exclusion List:

### Terrorist Exclusion List Designees

- Al-Ittihad al-Islami (AIAI)
- Al-Wafa al-Igatha al-Islamia

- Asbat al-Ansar
- Darkazanli Company
- Salafist Group for Call and Combat (GSPC)
- Islamic Army of Aden
- Libyan Islamic Fighting Group
- Makhtab al-Khidmat
- Al-Hamati Sweets Bakeries
- Al-Nur Honey Center
- Al-Rashid Trust
- Al-Shifa Honey Press for Industry and Commerce
- Jaysh-e-Mohammed
- Jamiat al-Ta'awun al-Islamiyya
- Alex Boncayao Brigade (ABB)
- Army for the Liberation of Rwanda (ALIR) -- AKA: Interahamwe, Former Armed Forces (EX-FAR)
- First of October Antifascist Resistance Group (GRAPO) -- AKA: Grupo de Resistencia Anti-Fascista Premero De Octubre
- Lashkar-e-Tayyiba (LT) -- AKA: Army of the Righteous
- Continuity Irish Republican Army (CIRA) -- AKA: Continuity Army Council
- Orange Volunteers (OV)
- Red Hand Defenders (RHD)
- New People's Army (NPA)
- People Against Gangsterism and Drugs (PAGAD)
- Revolutionary United Front (RUF)
- Al-Ma'unah
- Jayshullah
- Black Star
- Anarchist Faction for Overthrow
- Red Brigades-Combatant Communist Party (BR-PCC)
- Revolutionary Proletarian Nucleus
- Turkish Hizballah
- Jerusalem Warriors
- Islamic Renewal and Reform Organization
- The Pentagon Gang
- Japanese Red Army (JRA)
- Jamiat ul-Mujahideen (JUM)
- Harakat ul Jihad i Islami (HUJI)
- The Allied Democratic Forces (ADF)
- The Lord's Resistance Army (LRA)

Designated on February 18, 2003

- Al Taqwa Trade, Property and Industry Company Ltd. (a.k.a. Al Taqwa Trade, Property and Industry; a.k.a. Al Taqwa Trade, Property and Industry Establishment; f.k.a. Himmat Establishment)
- Bank Al Taqwa Ltd. (a.k.a. Al Taqwa Bank; a.k.a. Bank Al Taqwa)
- Nada Management Organization (a.k.a. Al Taqwa Management Organization SA)
- Youssef M. Nada & Co. Gesellschaft M.B.H.
- Ummah Tameer E-Nau (UTN) (a.k.a. Foundation for Construction; a.k.a. Nation Building; a.k.a. Reconstruction Foundation; a.k.a. Reconstruction of the Islamic Community; a.k.a. Reconstruction of the Muslim Ummah; a.k.a. Ummah Tameer I-Nau; a.k.a. Ummah Tamir E-Nau; a.k.a. Ummah Tamir I-Nau; a.k.a. Ummat Tamir E-Nau; a.k.a. Ummat Tamir-I-Pau)
- Loyalist Volunteer Force (LVF)
- Ulster Defense Association (a.k.a. Ulster Freedom Fighters)
- Afghan Support Committee (a.k.a. Ahya ul Turas; a.k.a. Jamiat Ayat-ur-Rhas al Islamia; a.k.a. Jamiat Ihya ul Turath al Islamia; a.k.a. Lajnat el Masa Eidatul Afghania)
- Revival of Islamic Heritage Society (Pakistan and Afghanistan offices -- Kuwait office not designated) (a.k.a. Jamia Ihya ul Turath; a.k.a. Jamiat Ihia Al-Turath Al-Islamiya; a.k.a. Revival of Islamic Society Heritage on the African Continent)

unclassified

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8. Mohamad Funaitel Al-Daihani

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unclassified

29/07/18

Exhibit RS



unclassified

### QUESTIONS FOR THE FAMILY OF MUHAMMAD SIHLI AL DAYHANI

1. Please provide Al Dayhani's biographic information: given name, other names he is known as, date of birth, place of birth, home address.
2. Please provide the family's information: father, mother, brothers, sisters, wife (include date of marriage), and children.
3. What is Al Dayhani's educational background? What school(s) did he attend as a child? Did he graduate from high school, and if so, when and where?
4. Did he attend college/university and where? How was his education financed (ie scholarship, self financed, etc)? What did he study? Did he earn a degree and if so in what? What did he do after college?
5. Provide his employment history: Who has he worked for, how long, what were his duties, what was his salary?
6. Is there any evidence or documentation to support any charitable contributions that Al Dayhani made?
7. What was Al Dayhani's purpose for traveling to Afghanistan during September of 2001?
8. Do you have any pamphlets regarding the Sanabal Charitable Committee. If so, are you willing to provide these pamphlets to U.S. government authorities?
9. Do you know or have you heard of a person named Faisal? If so, what is Faisal's relationship to Al Dayhani? Have the two ever met in person, and if so, when?
10. What countries has Al Dayhani traveled to, when (dates), for what purpose, and how long did he stay?
11. What has he told you about his travels? What did he do during his travels? Who did he meet? What was his relationship to the people he met (acquaintance, business associate, friend)?

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ANSWER TO THE QUESTIONS FOR THE FAMILY OF  
MUHAMAD SIHLI AL DAYHANI

1 Name : Muhamad Fenatil Sihli Al Dayhani

No other names

Date of birth : [REDACTED] 1965

Place of birth : Kuwait

Home Address : [REDACTED]

2. Father Name : [REDACTED]

Mother Name : [REDACTED]

Brothers Names : [REDACTED]

Sisters Names : [REDACTED]

Wife name : [REDACTED]

Date of Marriage : 16<sup>th</sup> April 1987

Children Name : [REDACTED]

3. Educational Background:

Kindergarten : Unknown

Elementary School : Talha

Middle School : Othiliah

High School : Jleeb Al Shouyookh which he graduated from in 1989 in  
Kuwait

4. He attend Kuwait University in Kuwait City, Govt. scholarship, he studied  
accountant science and he graduated from University degree in Auditing.

5. He was employed in the State Audit Bureau in 1991. His duty was in auditing on  
some of the governmental establishment, his salary was about 1500 KD, he  
worked before that one year in Ministry of Finance in 1989.

6. Yes we have. We have attached some documents supporting that he did  
charitable contributions.

7. He did travel to help and aid poor people and people in need.

8. We are searching for such pamphlets and we will provide you with these  
pamphlets if we find some.

9. Yes, [REDACTED] is Al Daihani's nephew. He is a teenager living in Kuwait with his  
family. Yes, he see and meets with his nephew [REDACTED] in person many times  
whenever they visited each other in Kuwait.

10. He travels to many countries with his family in his summer vacations and he  
stays in these countries as long as his vacation lasts.

unclassified

11. He talked about the countries he visited about their culture, sightseeing as any tourist person visited any country. He says that he enjoyed his vacation and he was having good relaxation from work and a good time with his family. He also traveled to the Saudi Arabia to visit the Holy Mosque and Mecca several times for worshipping God. We do not have any specific dates for his travels.

Unclassified

الجمهورية العربية السورية  
الجمهورية العربية السورية  
الرقم المدني ٢٦٥١١٠٤٠٠٧٦٢



الاسم محمد فتيان سحلي  
الديحاني

الجنسية كويتي  
البلد [Redacted]  
تاريخ انتهاء البطاقة ٢٠٠٣/ ١/ ٢٧

[Redacted]

[Redacted]

[Redacted]

[Redacted]



108165579

Unclassified

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Pg 5 of 18

State of Kuwait

Civil ID Card

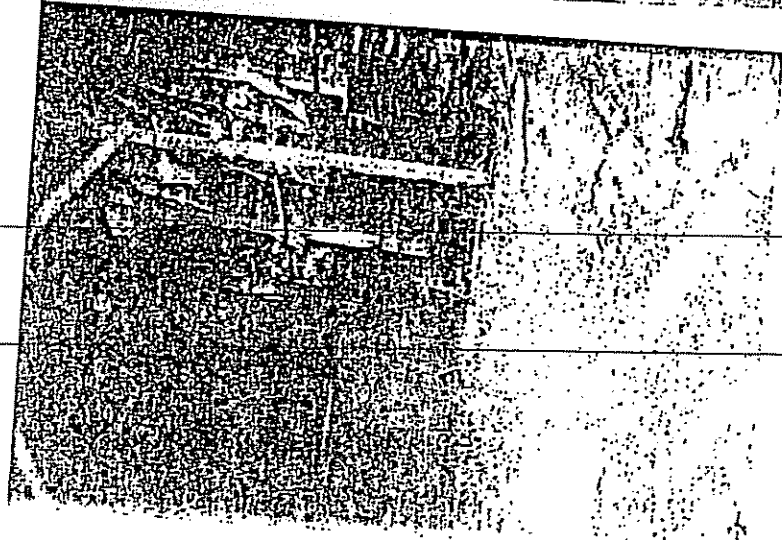
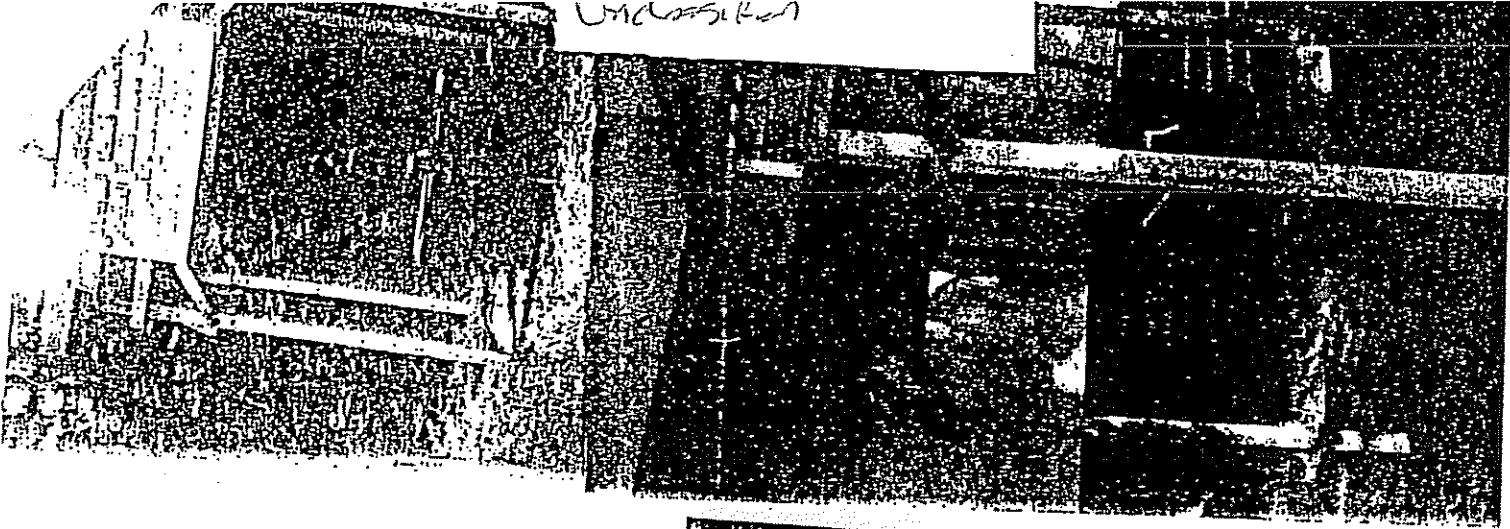
Civil No. 265110400762  
 Name Mohamad Fenaytill Sahli Mohamad Al-  
 Daihani  
 Nationality Kuwait  
 Date of birth [REDACTED]/1965 Sex Male  
 Expiry Date 27/6/2003

Overleaf:

Civil No. of the concerned party 265110400762

Nationality No. 186588  
 Address [REDACTED]  
 Building/ Plot [REDACTED] Type of Unit [REDACTED]  
 Unit No. -- Floor --  
 Tel. No. [REDACTED] Blood Group O-

UNCLASSIFIED



جسٹس اکیڈمی  
بھارتیہ اکیڈمی  
نومبر : ۱۰۰۲

۱۔ عنوان تصویر  
 ۲۔ تفصیل تصویر  
 ۳۔ مقام تصویر  
 ۴۔ تاریخ تصویر  
 ۵۔ نام تصویر  
 ۶۔ مرقوم سے منسوب تصویر

UNCLASSIFIED

Unclassified

**Association for Islamic Development Aid, Inc.**

P.O. Box 1502, Telephone 675

Pagadian City

Philippines

---

Date : . . .

No.

**Details of the completed project**

- Project No. FB:4/92, digging of a water well
- Donor : Mother of Mohamad Fenaytill Sahli Al-Daihani, May God reward him.
- Via : Sabah Al-Naser Alms Committee, May God reward them

---

- Address of project : Crosni Kouf, Demaltin, South Rambonga, Phillipines.
- General costs : KD200/-

---

- Commencement date of execution :
- Area of the project :
- Photos of the project are herewith enclosed.

**Association for Islamic Development Aid, Inc**

(Signed)

---

Unclassified

PS 81582



لله الشكر والحمد

ج: ١ / ١١ / ١٤١٦ هـ

جمعية إحياء التراث الإسلامي

: ٢٠ / ٢ / ١٩٩٦ م

عادر:

## لجنة جنوب شرق آسيا

أن/٦١/٩٤

المشروع باسم/أم محمد فنيطل الديحاني ووالديها جزاهم الله خيرا

السلام عليكم ورحمة الله وبركاته،،،

أما بعد،،،

يسرنا ابلاغكم بالانتهاء من إنجاز مشروعكم المبارك المتمثل في

- شراء مزرعة في أندونيسيا وبهذه المناسبة لايسعنا إلا أن ندعو المولى

عزوجل أن يتقبل منكم هذا العمل الطيب ويجعله خالصا لوجهه الكريم

ومضاعفا في ميزان حسناتكم ..ونسأله تعالى أن يبارك فيكم وفي أموالكم

ويجعلكم من السباقين دوما لفعل الخيرات .

وفقنا الله وإياكم لما يحبه ويرضاه .

وجزاكم الله خيرا ،،،

والسلام عليكم ورحمة الله وبركاته ....

رئيس لجنة جنوب شرق آسيا

جمال يوسف الحارثي

٢

للجمعية

1583  
18/9/95



*Unclassified*

**Revival of Islamic Heritage Society  
South East Asia Committee**

Date : 1/11/1416 A.H.

Corresponding to : 20/3/1996

Outward No. : AN/61/94

The project is in the name of mother of Mohamad Fenaytill Al-Daihani and her two sons,  
may God reward them

Peace be upon you

Dear Sir,

---

We are pleased to inform you of the completion of your project represented in the purchase  
of a farm in Indonesia. On this occasion we can do nothing but to pray to Al-Mighty God to  
accept your kind work and to make it pure for His sake and to double the reward for you.  
Further we ask Al-mighty God to bless you and your funds and to make you always from  
among those who do good deeds.

May God guide us and you to what He likes and accepts.

---

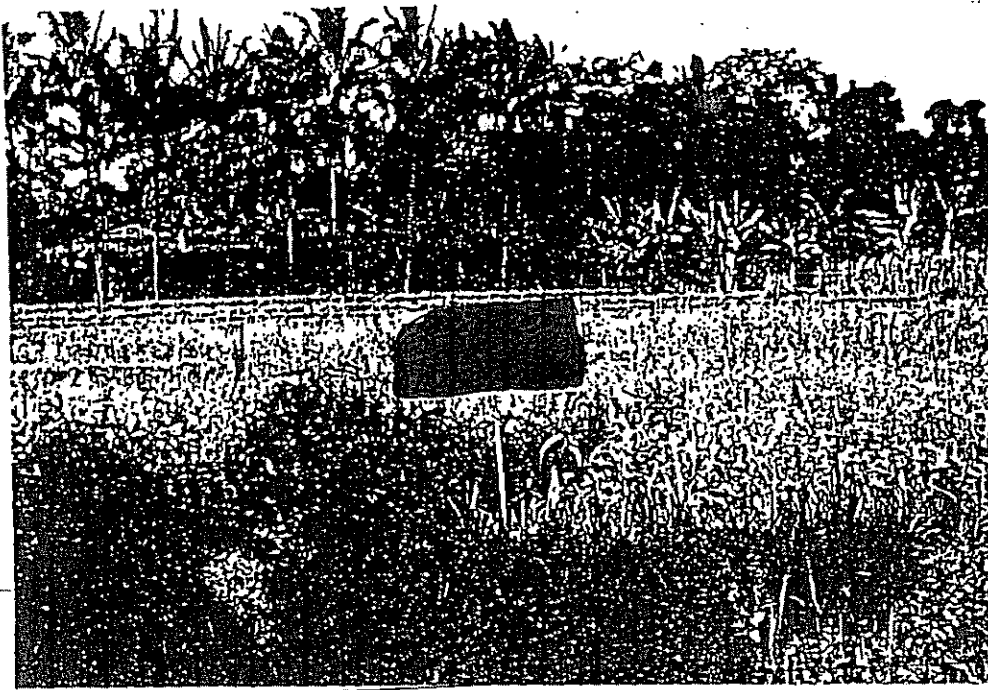
May God reward you .

Peace be upon you

**Head, South East Asia Committee**  
Jamal Yousuf Al-Haddad  
(Signed)

*Unclassified*

1584  
125 120 A18



وتقع هذه المزرعة في قرية سوکاجایا بمدينة بوقور  
نحو ٧٠ كم جنوب جاكرتا عاصمة إندونيسيا



منظر المزرعة من بعيد

Handwritten signature or name.

Unclassified

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This farm is located at Sukujaya village, Bukor City, about 70 kilometer south to Jakarta,  
Capital of Indonesia.

---

Perspective of the farm.

Unclassified

PS 1586/18

# إدارة بناء المساجد والمشاريع الإسلامية

«يا أيها الذين آمنوا أوفوا بالعقود»



## عقد اتفاق بناء

التاريخ ٤ من رمضان سنة ١٤١٤ هـ . الرقم: آن / ٦١ / ١٤

الموافق ١٤ / ٢ / ١٩٦٤ م .

مشروع : شرا - مزرعة

المدينة : الدولة أندونيسيا

الطرف الأول: إدارة بناء المساجد والمشاريع الإسلامية . ومثلها الاخ / طارق العيسى . يحفظه الله

الطرف الثاني: اللجنة الخيرية المشتركة

نود العقد:

(١) يتعهد الطرف الأول بتمويل مشروع : شرا - مزرعة ( صتقة جارية )

(٢) مدة تنفيذ المشروع :

(٣) يتعهد الطرف الثاني بتنفيذ المشروع حسب المخططات والمواصفات المتفق عليها على أن لا يزيد المبلغ

عن :

- / ١٠٠٠ د ك ( ألف دينار كويتي لاغير )

(٤) يتعهد الطرف الثاني بارسال تقارير وصور دورية يبين فيها مراحل الانجاز

(٥) يرسل المبلغ على : دفعة واحدة -

(٦) استلم الطرف الثاني مبلغ وقدره : - / ١٠٠٠ د ك ( ألف دينار كويتي لاغير )

(٧) المتبرع للمشروع : الاخـة الفاضلة / أم محمد فنيطل الديقاني ووالديها :

(٨) بواسطة / محمد فنيطل

طرف / فرع جليب الشيوخ

توقيع الطرف الثاني

توقيع الطرف الأول

رئيس

اللجنة الخيرية المشتركة

محمد زورويان بن فداوي

Umeed Al-Haq

State of Kuwait  
Revival of Islamic Heritage Society  
Mosque Construction and Islamic Projects Department

*"O you believers you must fulfill contracts"*

Construction agreement contract

No. AN/61/94

Date: 4 Ramadhan 1414 A.H.

Corresponding to : 14/2/1994

Project : Purchase of a farm

City : - Country : Indonesia

First party : Mosque Construction and Islamic Projects Department, represented by Mr.

Tareq Al-Essa, may God keep him

Second party : Combined Charitable Committee

Terms of contract :

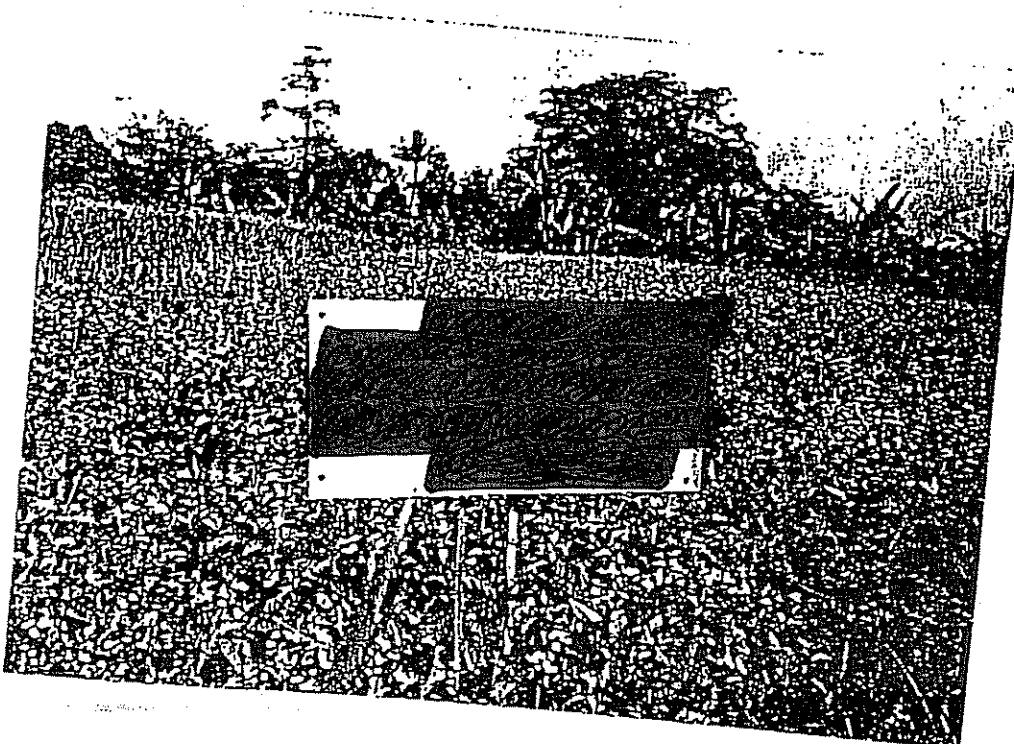
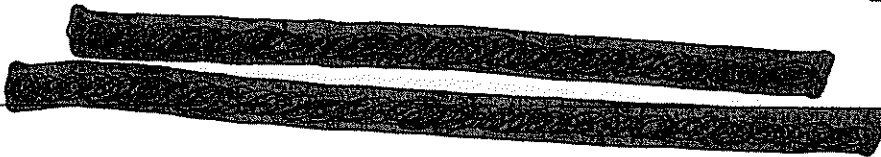
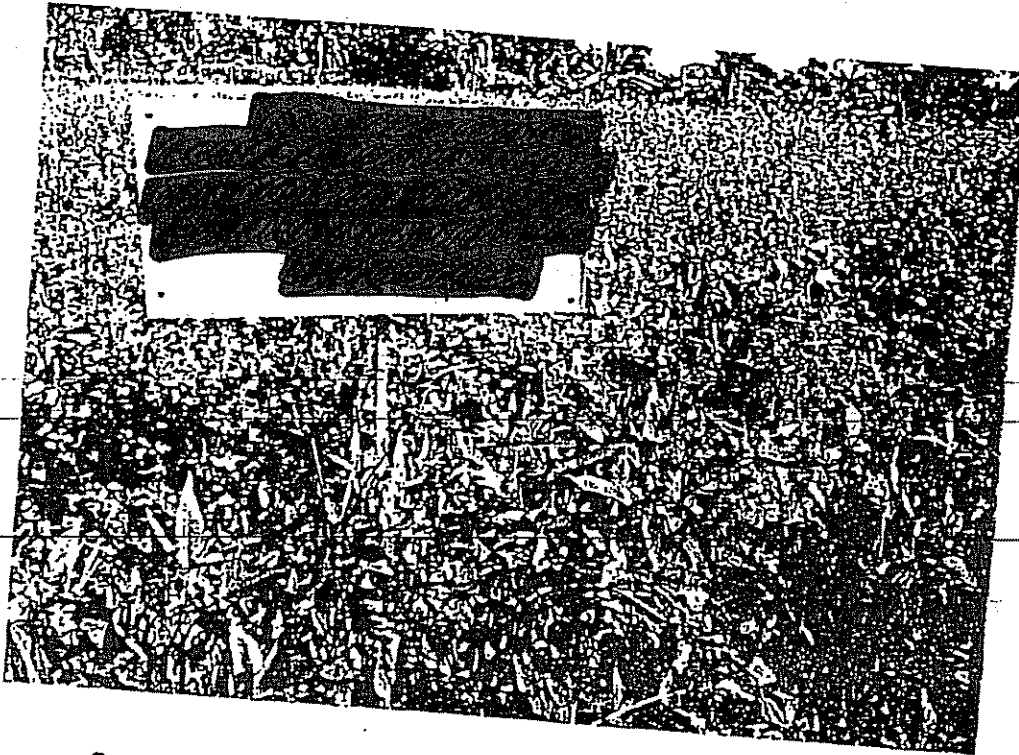
- 1) The first party undertakes to finance the project of purchasing a farm (continuous alms)
- 2) The term of project execution:.....
- 3) The second party undertakes to execute the project as per the agreed upon plans and specifications, provided that the amount should not exceed KD1000/- (Kuwaiti Dinars one thousand only).
- 4) The second party undertakes to send periodical reports and photos indicating the stages of completion.
- 5) The amount should be sent on one payment.
- 6) The second party has received the sum of KD1000/- (Kuwaiti Dinars one thousand only).
- 7) The donor: Mrs. Mother of Mohamad Fenaytill Al-Daihani and her two sons, via Mohamad Fenaytill
- 8) At Jleeb Al-Shuyoukh.

Signature of the First party  
(Signed & sealed)

Signature of the Second party  
(Signed & sealed)

Umeed Al-Haq

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Unclassified

62/94

In the name of God, Most Compassionate, Most Merciful

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them.

---

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them

62/94

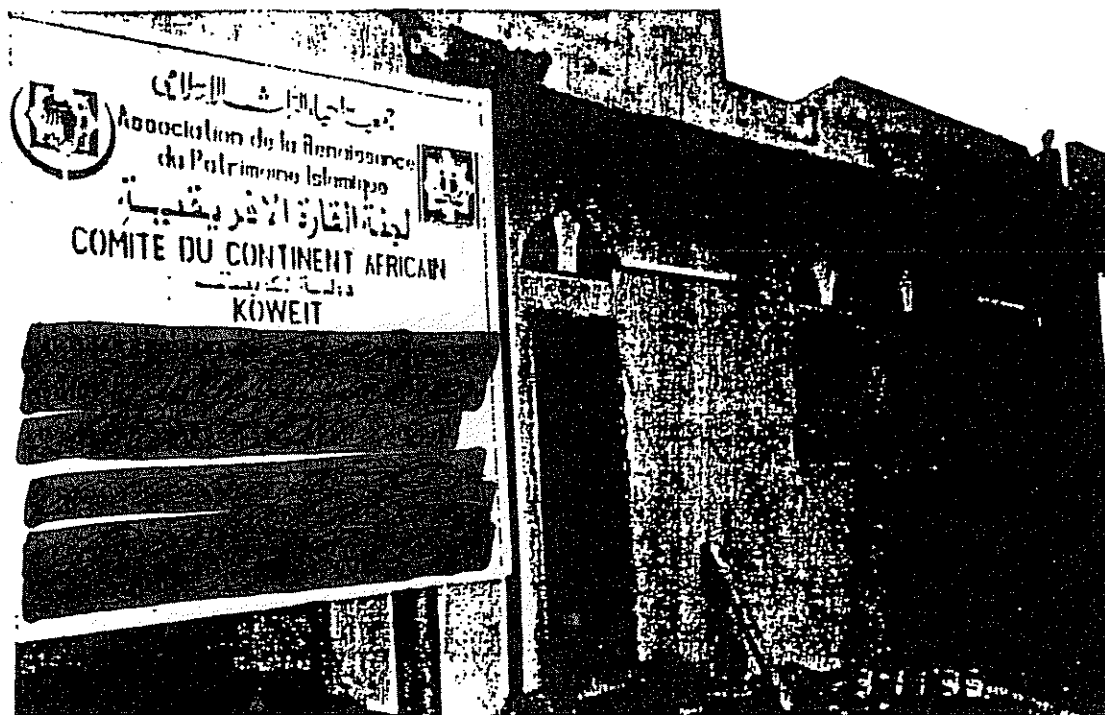
In the name of God, Most Compassionate, Most Merciful

This 1000 square meters farm was purchased in favour of orphan village at Bukour village.

The donor is [REDACTED] and her two sons, may God reward them

unclassified

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Unclassified



Mother of Mohamad Fenaytill Sahli Al-Daihani,  
Via Mohamad Fenaytill Sahli Al-Daihani,

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Association for Islamic Heritage Revival Society

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African Continent Committee

State of Kuwait

Donor's name [REDACTED] via Mohamad Fenaytill Sahli Al-Daihani,

Type of project: Construction of a mosque.

Contract No. : BN/1/95

Place of project : Ketou

Country: Benin

Execution and supervision : African Continent Committee Office, Benin.

Unclassified

1592  
Pg 18 of 18

**Personal Representative Review of the Record of Proceedings**

I acknowledge that on 5 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]

[REDACTED] Lt. Col., USAF

5 Oct 04  
Date

[REDACTED]

Signature

ISN # [REDACTED]  
Enclosure (5)