IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JARALLAH AL MARRI, et al.))
Petitioners,))
v.) Civil Action No
GEORGE W. BUSH, President of the United States, 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 Jarallah al Marri 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 law enforcement sensitive information as well as that which 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: <u>22 Nov 04</u>

CDR, JAGC, USN



Department of Defense Director, Combatant Status Review Tribunals

OARDEC/Ser: 0352

From: Director, Combatant Status Review Tribunal

1 8 MOV 2004

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN

(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 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and

2. This case is now considered final and the detainee will be scheduled for an Administrative

J. M. McGARRAH RADM, CEC, USN

Distribution: NSC (Mr. John Bellinger) DoS (Ambassador Prosper) DASD-DA JCS (J5) SOUTHCOM (CoS) **COMJTFGTMO** OARDEC (Fwd) CITF Ft Belvoir

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15 Nov 04

MEMORANDUM

From: Legal Advisor

Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN

(a) Deputy Secretary of Defense Order of 7 July 2004 Ref:

(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #7 of 13 September 2004

(2) Record of Tribunal Proceedings

- 1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I
 - a. The detainee was properly notified of the tribunal process and elected to participate. At the start of the tribunal, however, the detainee stated he wanted the assistance of a lawyer. After being informed that he would not receive the assistance of a lawyer at the tribunal, the detainee refused to actively participate further in the proceedings. The Personal Representative presented information that the detainee had previously provided to him during their pre-tribunal interviews. There was some confusion between the Personal Representative and the Tribunal regarding whether the detainee wished the Personal Representative to present the information to the Tribunal. The confusion was resolved by having the Personal Representative present the information in the immediate presence of the detainee, who made no effort to stop the Personal Representative from presenting it.
 - b. The Tribunal was properly convened and constituted by enclosure (1).
 - c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibit R-3 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
 - d. The detainee requested no witness nor did he request any classified or unclassified documents be produced.
 - e. The Tribunal's decision that detained is properly classified as an enemy combatant was unanimous.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR DETAINEE ISN

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

LAMES R. CRESFIELD 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 #7

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:

Colonel, U.S. Army; President

Commander, JAGC, U.S. Navy; Member (JAG)

Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH

Rear Admiral

Civil Engineer Corps

United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD

GUANTANÁMO BAY, CUBA APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

5 November 2004

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN

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

CHARLES E. JAMISON CAPT, USN

SECRET//NOFORN//X1

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #7

(U) ISN#: _____

Ref: (a) (U) Convening Order for Tribunal #7 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/FOUO)

(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)

(3) (U) Summary of Testimony (U/FOUO)

(4) (U) Copies of Documentary Evidence Presented (S/NF)

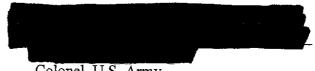
(5) (U) Personal Representative's Record Review (U/FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 30 October 2004, the Tribunal determined by a preponderance of the evidence that Detainee properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, Taliban or Al Qaida forces, 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. Army Tribunal President

DERV FM: Multiple Sources
DECLASS: XI

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #7 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 Taliban or Al Qaida forces. 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 Tribunal held this hearing on 30 October 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that: the detainee is a Qatar citizen who traveled to Afghanistan, through Pakistan, to participate in the Jihad; the detainee arrived in Pakistan in the fall of 2001 and later traveled to a guesthouse in Afghanistan; prior to 11 September 2001, the detainee went to the camp even after learning it was owned by Usama Bin Laden; the detainee fled the camp after 11 September 2001, and was issued an AK-47; the detainee had interaction with the Taliban and they directed him through checkpoints throughout Afghanistan; and, the detainee and others fled Afghanistan, but were arrested at the Pakistan border by the Pakistani police. The Recorder called no witnesses.

The detainee elected to participate in the Tribunal, and his election is reflected in the Detainee Election Form (Exhibit D-A). However, after the Tribunal President explained his rights to him, the detainee asked whether the Tribunal would follow the laws of the United States. When the Tribunal President confirmed that the Tribunal would, the detainee indicated he would make no further comments without a lawyer present because he did not understand or know who makes the laws. The Tribunal President informed the detainee that the hearing was not a criminal proceeding, but the detainee responded to every inquiry thereafter with "no comment." The Tribunal President asked the detainee whether or not he wanted to attend the remainder of the hearing, and again the detainee replied "no comment." Accordingly, the Tribunal President proceeded with the hearing with the detainee present. At the point in the hearing where the detainee is given the opportunity to present evidence, the Personal Representative asked the detainee if he wanted the Personal Representative to provide the Tribunal with the detainee's responses

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to the allegations on the Unclassified Summary of Evidence. The Personal Representative had the responses documented in notes he had taken during a prior interview with the detainee. Again, the detainee responded "no comment." The Personal Representative tried to discern what the detainee's intent was, initially thinking the detainee did not want the information presented, but ultimately deciding to present it. The Tribunal left the decision up to the Personal Representative, because the Tribunal did not want to discourage the introduction of any exculpatory evidence. After making the decision to introduce the evidence, the Personal Representative read into the record the detainee's responses to the allegations found on the Unclassified Summary of Evidence. The detainee's responses to the allegations are presented in Enclosure (3) to the CSRT Decision Report. The detainee requested no witnesses and presented no other evidence.

During the classified session of the Tribunal, the Recorder presented classified Exhibits R-3 through R-10, and commented on the evidence. The Personal Representative presented no classified evidence, but did make a comment with respect to the classified exhibits. The Tribunal then closed for deliberations and voting. After considering all of the classified and unclassified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-10 and D-A.
- b. Testimony of the following persons: None.
- c. Statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The detainee requested no witnesses.

The detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1 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, the FBI redaction certification, provided no usable evidence. Accordingly, the Tribunal had to look to other evidence to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions.

b. As noted in paragraph 2, above, the Personal Representative provided the responses the detainee had previously given him to the allegations on the Unclassified Summary of Evidence. In sum, the detainee told him the detainee met people in Mecca who brought him to Afghanistan; the guesthouse he stayed in belonged to the people who brought him to Afghanistan; prior to 11 September 2001, he did go to the camp even after learning it belonged to Usama Bin Laden; he did not have an AK-47 when he fled the camp; he fled the camp because the Americans were going to bomb the camp; he never fought anyone and did not want to continue because it was wrong; the Taliban did not direct him through the checkpoints, but they did control them; and, he fled to Pakistan by himself in a taxi and had his paperwork and passports with him. The Personal Representative asked the detainee if he wanted to elaborate on the answers, but the detainee indicated only "no comment." A summarized transcript of the responses read by the detainee's Personal Representative is attached as CSRT Decision Report Enclosure (3). Even if the information conveyed by the Personal Representative is not considered, the Tribunal finds the classified evidence overwhelming that the detainee is an enemy combatant and was part of or supporting Taliban or Al Qaida forces. 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

None.

7. Conclusions of the Tribunal

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

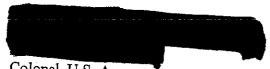
- a. Although the detainee elected to attend the Tribunal proceeding, he chose not to respond to anyone at the hearing other than to say he had no comment without an attorney present. No evidence was produced that caused the Tribunal to question whether the detainee was mentally and physically capable of actively participating in the proceeding, had he wanted to do so. Accordingly, no medical or mental health evaluation was requested or deemed necessary.
- b. The detainee understood the Tribunal proceedings and made a knowing, intelligent and voluntary decision not to make a statement or present evidence without a lawyer present.

c. The detainee is properly classified as an enemy combatant because he was part of or supporting Taliban or Al Qaida forces.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army Tribunal President

Summarized Detainee Statement

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: Yes.

Tribunal President: You have questions?

Detainee: I am going to speak Arabic because my English is not too good, you know?

Does this Tribunal follow the laws of the United States?

Tribunal President: Yes.

Detainee: Based on this, I don't understand or I don't know who makes the laws, and

because of this I will require a lawyer. I have nothing to say here.

Tribunal President: This is not a criminal court.

Detainee: That's what I have to do.

Tribunal President: Okay, this is not criminal court, Jaralla, so it is not necessary for you to have a lawyer.

Detainee: No comment.

Tribunal President: Personal Representative, was it your understanding that Jaralla was going to participate in this hearing?

Personal Representative: Yes, it was, ma'am.

Tribunal President: Personal Representative was the Tribunal process explained to

Personal Representative: Yes, it was, ma'am.

Tribunal President: With that understanding Jaralla, of course you are not compelled to testify and you are not required to participate if you do not wish to do so; however, this is your opportunity to tell this Tribunal your story, and we are here now and we are willing to listen to your side of the story. So what is your decision?

Detainee: No comment.

Tribunal President: Does that mean you do not want to participate?

Detainee: No comment.

Tribunal President: I need to know if you would like to participate because we can go on with you here or we can take you back to your cell.

Detainee: No comment.

Tribunal President: Would you like to stay here while we go through the process?

Detainee: No comment.

Tribunal President: Okay, Jaralla, the Tribunal has decided to allow you to stay here while we go through the process. You are certainly encouraged to participate or to respond, if you like.

Detainee: No comment.

Tribunal President: Jaralla, you may now present any evidence you have to the Tribunal and you have the assistance of your Personal Representative in doing so. Do you want to present information to this Tribunal?

Detainee: No comment.

Tribunal President: Personal Representative, do you have any questions for the detainee?

Personal Representative: When we met for our interview, I did take a few sentences and notes. He had agreed that he was going to speak on his own. But I had asked if I could take a few notes as reminders. I did. Is it his wish that I read these notes? These comments?

Detainee: No comment.

Tribunal President: Okay, we will move on as if we did not have access to this. Personal Representative, is it your wish to present those comments?

Personal Representative: I would be asking for some guidance on this. I do have comments when I met with the detainee regarding each of the accusations you gave me. A few sentences worth of information. He said he does not want me to say them, but I am not sure what I should do, because I have them written here. [Note: As noted in the transcript above, the detainee did not say, "don't present my statements." He only said, "No comment" when the Personal Representative asked him if he wanted statements presented.]

Tribunal President: It's up to you.

Personal Representative: I would say regarding his comments, he does not want me to say anything. [Note: Same point as above; the detainee did not tell the Personal Representative not to present the detainee's statements. He only said, "No comment."]

Tribunal President: What are your wishes, Personal Representative?

Personal Representative: I think since he said it to me, I should read them.

Tribunal President: Are these comments related to the Unclassified Summary?

Personal Representative: Yes, ma'am.

3.1. The detainee is a Qatar citizen who traveled to Afghanistan through Pakistan, to participate in the Jihad.

Personal Representative: His response was that he met people in Mecca who brought him to Afghanistan.

3.2. The detainee arrived in Pakistan in the fall of 2001 and later traveled to a guesthouse in Afghanistan.

Personal Representative: He did not know anyone. The house belonged to some people who brought him to Afghanistan. At this time, he did not know who they were.

3.3. Prior to 11 September 2001, the detainee went to the camp, even after learning it was owned by Usama Bin Laden.

Personal Representative: His response was, "yes."

3.4. The detainee fled the camp after 11 September 2001, and was issued an AK-47.

Personal Representative: He said this was wrong. He did not have an AK-47. He fled because after September 11th, the Americans were going to bomb the camp. He said, "I never fought anyone. I did not want to continue because it was wrong."

3.5. The detainee had interaction with the Taliban and they directed him through checkpoints throughout Afghanistan.

Personal Representative: The notes I have here say they did not help him. At that time, the Taliban controlled all of the country and all of the checkpoints.

3.6. The detainee and others fled Afghanistan, but were arrested at the Pakistan border by the Pakistani police.

Personal Representative: He said, "Yes, but no one was with me. I was alone. From Kandahar to Pakistan, I took a taxi. I paid my money. The Taliban was all defeated, except in Kandahar. I had all my paperwork and passports."

Tribunal President: Thank you Personal Representative.

Personal Representative: May I ask one more question? I will ask him if he would like to elaborate on this. Would you like to elaborate on this?

Detainee: No comment.

Tribunal President: Jaralla, would you answer questions if the Tribunal asks you questions?

Detainee: No comment.

Tribunal President: Is that all the unclassified evidence that needed to be presented, Personal Representative and Recorder?

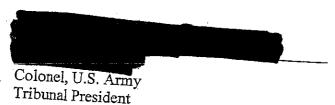
Recorder: I have no comment on anything that has been stated.

Personal Representative: I have no other unclassified information to present.

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

AUTHENTICATION

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



DETAINEE ELECTION FORM

	Date: 27-Oct-04
,	Start Time: 0830
•	End Time: 0930
ISN#:	
Personal Representative: (Name/Rank)	
Translator Required? YES	Language?ARABIC
CSRT Procedure Read to Detainee or V	Vritten Copy Read by Detainee? YES
Detainee Election:	
X Wants to Participate in Trib	ouna]
Affirmatively Declines to Par	rticipate in Tribunal
Uncooperative or Unrespons	
Personal Representative Comments	s:
Detainee has no witnesses requests.	
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<u> </u>	
Personal Representative	LCDR, USN Exhibit:D-A

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (14 October 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL MARRI, Jaralla Saleh Mohammed Kahla

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

The detainee was associated with the Taliban and al Qaida forces.

- 1. The detainee is a Qatar citizen who traveled to Afghanistan, through Pakistan, to participate in the Jihad.
- 2. The detainee arrived in Pakistan in the fall of 2001 and later traveled to a guesthouse in Afghanistan.
- 3. Prior to 11 September 2001, the detainee went to the camp even after learning it was owned by Usama Bin Laden.
- 4. The detainee fled the camp after 11 September 2001, and was issued an AK-47.
- 5. The detainee had interaction with the Taliban and they directed him through checkpoints throughout Afghanistan.
- 6. The detainee and others fled Afghanistan, but were arrested at the Pakistan border by the Pakistani police.
- 4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED	Page	1	of		_
					2225
			Exhibit_	12-1	

Memorandum



To

Department of Defense

Date 10/13/2004

Office of Administrative Review for Detained Enemy Combatants Col. David Taylor, OIC, CSRT

From :

FBI GTMO

Counterterrorism Division

Asst. Gen. Counsel

Subject

REQUEST FOR REDACTION OF

NATIONAL SECURITY INFORMATION

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

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

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

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

FD-302 dated 04/01/2002

	Page	1	of	2	_
Unclassified					2226
		Ex	hibit _	12-2	-

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

²See Executive Order 12958

unclassified

Memorandum from to Col. David Taylor Re: REQUEST FOR REDACTION, 10/13/2004

If you need additional assistance, please contact

or Intelligence Analyst

. Intelligence Analyst

-2-

Personal Representative Review of the Record of Proceedings

I acknowledge that on 1 November 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN

I have no comments.

___ My comments are attached.

Name

Others

Date

Signature