



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0419
22 NOV 2004

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From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 496**

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 #496 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

A handwritten signature in black ink, appearing to read "J. M. McGARRAH", is positioned above the typed name.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
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12 Nov 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 496Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

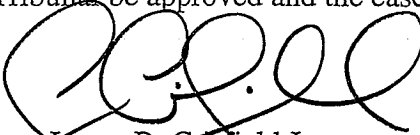
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:
 - a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
 - b. The Tribunal was properly convened and constituted by enclosure (1).
 - c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-3, R-4, R-5, R-6, R-7, R-8, and R-9 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. Furthermore, the Tribunal, on its own accord, sought additional information in order to answer a question they had regarding the potential membership of the detainee in a particular organization.¹ The additional information, classified Top Secret/SCI, answered the Tribunal's question and rendered the issue irrelevant. The additional TS/SCI information is not attached to the Tribunal's Decision Report but was not considered by the Tribunal in their determination that the detainee is properly classified as an enemy combatant. Since this was a collateral issue that ultimately was resolved in the detainee's favor, I do not view the Tribunal's handling of the matter as prejudicing the detainee in any way.
 - d. The detainee made no requests for witnesses or other evidence.
 - e. The Tribunal's decision that detainee # 496 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.

¹ The details of this issue are classified Secret/NOFORN and are discussed in paragraph 2 of enclosure (2) of the Tribunal Decision Report.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 496

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Gusfield Jr.
CDR JAGC, USN

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Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

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. Air Force; President

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member
(JAG)

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

A handwritten signature in cursive script, appearing to read "J. M. McGARRAH", is positioned above the typed name.

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

28 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 496

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 [REDACTED].

A handwritten signature in black ink, appearing to read "D.L. Taylor", is written over the typed name.

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: #5

(U) ISN#: 496

Ref: (a) (U) Convening Order for Tribunal #5 of 17 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

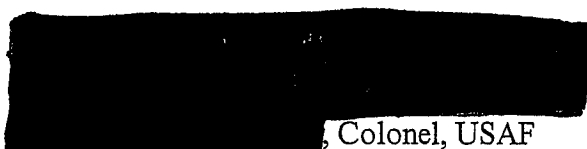
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) (U) Summary of Detainee/Witness Testimony (U)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 22 September 2004 and 24 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 24 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #496 is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of the Taliban 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, USAF
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #5
ISN #: 496

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of the Taliban. 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 summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member of the Taliban. The summary of evidence stated that the detainee was a Taliban fighter. It is further alleged that the detainee worked for the Taliban government and was in charge of the Taliban Office of Intelligence, Division #2, located in Mazar-e-Sharif, Afghanistan. The summary of evidence stated that the detainee worked as the Chief of Intelligence for five to six months. The summary of evidence further alleges that the detainee participated in military operations against the coalition, was wounded in the wrist and shoulders, and was captured by General Dostum's Northern Alliance forces. 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 with the assistance of the Personal Representative. In his oral statement, the detainee stated that he worked for the Taliban, but only as a government official that oversaw the bakeries, oversaw the distribution of bread coupons and that he was responsible for investigating complaints. In the detainee's sworn testimony, he stated that his office was collocated with that of the Taliban Office of Intelligence, Division #2 and that he was not an intelligence officer nor chief of the office. The detainee testified that he was given a Taliban government job to work off debts that he owed to the commander of the intelligence office, a former business partner. The detainee testified that he received a house and car for his work as a government official and also from the generosity of the Taliban Intelligence Chief whom the detainee implied was his forced lover. The detainee denied being wounded by shrapnel or that he participated in combat operations as alleged by the summary of evidence. He further denied that he was a Taliban fighter, but confirmed that he worked for the Taliban government. After consideration of the unclassified and classified evidence, the Tribunal recessed to permit the recorder time to gather additional evidence requested by the Tribunal. The Tribunal President directed the Recorder to search Top Secret/SCI sources for more information regarding this detainee. The board reconvened on September 24,

2004, two days after the initial board, and reviewed addition classified evidence presented by the Recorder. After all matters were considered, the preponderance of evidence clearly showed that the detainee has been properly classified as an Enemy Combatant. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, D-b and R-1 through R-25
- b. Testimony of the following person: none.

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

The Detainee requested no witnesses be produced for the hearing.

The Detainee requested no additional evidence be provided.

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 through 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 is a FBI Redaction Request and provided no usable evidence. Accordingly, the Tribunal had to rely the detainee's sworn testimony and looked to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's sworn testimony. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the detainee testified that most accusations made against him alleging his status as an enemy combatant were false. He denied being a Taliban fighter, but confirmed that he worked for the Taliban government and denied being a Taliban intelligence Officer. During his sworn testimony the detainee stated that he was forced to travel from his farm home to Mazar-e-Sharif after his sandal peddling business had failed and soon became indebted to his business partner. The detainee's business partner, Aghe Jan, forced the detainee to sell his business and pay him the money he invested in the sandal business. Aghe Jan was also a Taliban customs agent for the Taliban government. When the detainee was unable to pay the full amount, Aghe Jan forced the detainee to work for him to pay the remainder of the

owed debt. Aghe Jan was subsequently transferred to Mazar-e-Sharif to take a position as the Taliban intelligence Chief at the Taliban Office of Intelligence, Division #2 located in Mazar-e-Sharif, Afghanistan. The detainee stated that he enjoyed a comfortable life working for Aghe Jan because the detainee was Aghe Jan's lover. The detainee was given a house, car and a job as a Taliban government official responsible for bakeries and other food distribution facilities. In his capacity as a government employee, the detainee's office was co-located with the Taliban Office of Intelligence and he worked out of this building. The detainee was given nice clothes, paid a decent salary, a home for him and his brothers, and a car for government business. The detainee denied that he was a Taliban fighter and that shrapnel wounded him. The detainee testified that he was betrayed by his another business partner after Mazar-e-Sharif fell to General Dostum's Northern Alliance troops and was subsequently handed over to the Americans because of lies told by his old business partner that was a leader in the Northern Alliance. The detainee stated that his old business partner fabricated the story of him being the Chief of Intelligence in Mazar-e-Sharif. Although the Tribunal did find the detainee's testimony regarding employment with the Taliban government interesting, the Tribunal turned to classified sources for further clarification.

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

6. Consultations with the CSRT Legal Advisor

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

7. Conclusions of the Tribunal

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

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. The detainee asked no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant. Specifically, he is a member of the Taliban.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



, Colonel, USAF

Tribunal President

Summarized Sworn Detainee Statement

[While administering the Oath to the Personnel Representative, the detainee interrupted and stated that he didn't understand the wording used by the translator. The translator again described to the Detainee the swearing in process of the Tribunal team and the Personnel Representative.]

[When the Tribunal President stated for the Record that the Recorder, Reporter and Translator had previously been sworn, the detainee interrupted and asked what the Recorder was. The President asked the Translator to explain the role to the Detainee.]

When asked by the Tribunal President if the detainee understood the CSRT process, the detainee stated, "No I don't."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process the Detainee answered: "I will see what you ask me, and according to that I will answer."

The Tribunal President asked the Detainee what parts of the Tribunal process did he not understand.

Detainee: "I am not literate and don't understand what you mean when you say 'process.' I need you to breakdown what you mean by process because I don't understand the word, I haven't gone to school."

Tribunal President: "If you have a question about the process as we go along you may ask it and we will answer it."

[The Detainee then asked the Translator to clarify what the Tribunal President meant about asking questions. The Translator explained to the Detainee that if during the Tribunal the Detainee had any questions, the Detainee could ask the question and the Tribunal President would answer the question.]

Detainee: "Okay."

The Tribunal President then asked if the detainee wanted to make a statement.

Detainee: "Yes."

The detainee then began giving his statement and testified essentially as follows:

Only one of the charges against me is the true. The others are not. If you say they are, show me the proof. [The Personnel Representative interrupted after the Detainee made his comment and stated, "I want to reiterate what we talked about in our

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interview. This Tribunal is the part where you can talk to the Tribunal members who have not talked to you yet.”]

Detainee: “I want to talk to the Tribunal members.” [The Personnel Representative told the Detainee: “This is not the time for asking questions or asking the Tribunal members to provide you with reasons, this is the time for you to provide the {information to} Tribunal members.”]

Detainee: “I understand, I am sorry that I am illiterate and don’t know. Sorry.”

Personnel Representative: “That is what I am here to help out with. Do you want to go through this point-by-point very quickly?”

Detainee: “Yes.”

Tribunal President (to the Detainee): “Let me clarify. This is the time you may talk to us if you want. You don’t have to say anything to us at all if you don’t want.

Detainee: “I want to talk.”

Tribunal President: “It’s totally up to you.”

[The Detainee then indicated he wanted to make his statement under oath and was sworn by the Recorder. He continued his statement essentially as follows]:

Before I start, I was never part of nor have I seen the Taliban. I told everything to my interrogator. I was a poor person in my country and I was running away from the Taliban. You stated I was protecting the Taliban and was working with them. Who has seen me working with them? I was nobody over there. It is hard for me to believe you have any witnesses that will say I worked for the Taliban. If you have someone who says I worked with the Taliban from that Region, then bring me that person. Secondly, I have never held any weapons in my hands or fought against anyone. I have never been injured. I haven’t even had a needle in my body. I am trying to answer the allegations against me. What was the third allegation? [The Personnel Representative responded to the Detainee: “You were placed in charge of the Taliban office and you worked as Chief of the Taliban office.”]

[The Detainee continued his statement]:

I was never in charge, I have never been there, and I have never worked for them. I have already told you the story, and I will tell you again. I was poor. I left my house to look for work. I went to work in the hotel I had in Jalalabad, Afghanistan. I had a partner in the business and a helper. The helper was in training. My partner and I had a dispute over this trainee. My partner told me he wasn’t going to do business with me

anymore. He was going to sell the property, take his share of the money, and get out. You asked me for evidence regarding this. You swore me in the name of Allah that I will tell the truth and now there is no one who will witness this for me from Afghanistan. No one wants to go through all the trouble to here. I don't have a witness here or anyone to testify for me. The only thing I have is my word. I can give you an address and you can contact and verify everything from the people that came out to the house. You tell me it is impossible for me to bring in a witness from Afghanistan. You can call a neighbor and verify that I had a business and was working over there. For example, if you call my neighbors they will tell you I was selling sandals, then that will prove I was right.

I will tell the real story now. For almost two years I was in the hotel business. At the intersection called Palashi. My business was across from the customs door. There was a guy named Ali Jahn that worked in the customs office. Other Taliban officials that worked there came to our hotel and eat. Ali Jahn told me he was my countryman from the North. We got acquainted when he came to get food for his guests. When my partner and I got in a dispute over the hotel, my partner told me he was going to sell everything and split the proceeds. I asked him not to sell everything. We had been here for two years and had spent a lot of money on the hotel. I ask him to make a deal. I asked Ali Jahn's advice about what to do with the business. Ali Jahn said not to sell everything at once. We should first find out what the prices were and continue from there.

[The Translator clarified that a "hotel" actually refers to what Americans would call a restaurant]

Based on the prices, my partner would give me money. I could then go home, take care of business there, then come back and get the rest of my money. My partner said he would sell everything at the original purchase price, not the used price. I told my partner it was hard for me here because I didn't know anyone. My partner told me he was going to find another partner for me. My partner found someone from the customs office. I made a list of everything; it was worth about three hundred and seventy or three hundred and eighty thousand in Afghani money. My new partner gave me half the money and told me to continue working at the hotel. He didn't know anything about running the business. There were businesses across from us that would fry things in a big bowl. For one kilo of meat, they would profit one hundred thousand Afghani rupies. I decided I was also going to use a big bowl to fry things. The other businesses got angry when they saw I was using their idea. They thought I was going to take all of their business. If I started the business the way I had planned, I would have sold one hundred kilos of meat each day, which would have been equivalent to one hundred thousand Afghanis. About one hundred dollars per week. The person working with me was my handyman. As I was trying to start this business, the handyman disappeared. I went after him and crossed the Torhan Boarder, which is between Pakistan and Afghanistan. I went to Pashwar and looked for him for a week. When I couldn't find him, I came back. That was the main road and next to the main road was the sidewalk and next to the sidewalk was the customs office.

[A Tribunal member interjected: "For the purpose of the record, the Detainee was describing the layout of the land he was drawing a picture on the floor for the benefit of the Tribunal members. He was explaining his business location in reference to the sidewalk.]

[The Detainee continued]: I swore and promised I would tell you the truth. If I am not a criminal and I haven't committed any crimes, why are my hands handcuffed? In Afghanistan, there are people who will sell people for money. They use the name boss and whatever name they used to hand me over; you will find out why. This is my true story and I am going to tell it. When I came back all the other shops joined in filed a claim against me at City Hall. The government closed my business. Joining the Taliban is very hard. The shops around me looted all my goods from my business. They told each other I had skipped town. I contacted the security office and reported the incident. The shop owners went to the Security Commander with their families and stated they had not looted my store. They told the Commander the Taliban ruined my business. Each shopkeeper admitted they had taken one or two items from my shop. They told the Commander they were safeguarding the items until I got back. The shopkeepers also said if they had to go to prison for this, then their wives and children would be left alone without income. The Commander told me and the other people in the dispute to resolve our issues amongst ourselves, wasn't going to do anything about it. After a month of trying to resolve this, I hadn't got anything back from them. It was the month of Ramadan and I didn't have any money to buy food. My two years of hard work and effort went to waste. I went back to Ali Jahn and told him the story. My new partner said because I opened an illegal business, I should give him his money back. Another person told my partner I was a poor guy and that he wouldn't be able to get anything from me. They gave me a job in the customs office as a laborer so I could pay my partner back. I was sponsored by another person, so I could work at the customs office. My other partner was involved in security and told them I was a good guy and to do business with. Ali Jahn assured them I was okay to work with. I was a laborer for six or seven months. One of my friends took the money I earned and paid the people I owed. It was hard work. I got depressed every day. I ended up getting sick. After four months my partner gave me some of my money back and told me to keep it for myself. In those last four months I collected about nine to fifteen thousand dollars (inaudible). I was sad and went to Mazar-e-Sharif without permission from Ali Jahn. I owed a lot of people in Mazar and where I am from. I decided I would stay in Mazar and work.

After saving money I planned to return to my village. I rented a little shopping space near an intersection under an apartment complex. I would buy pairs of sandals and sell them in my shop. I had customers who purchased sandals from me everyday. I never earned less than five hundred thousand a day and sometimes earned up to fifteen hundred thousand a day. I would buy forty dozen and I would make a hundred thousand per dozen for the sandals I sold. I was sitting with some friends when a couple of Talibs showed up. They asked me where I was from and what type of business I was doing. I was surprised and suspicious. I wondered why he was so kind and why he asked me what I was doing and how was my business? I thought maybe he had seen me someplace

before. I was very excited to go back to my village. I had collected some money and I could pay back some of the people I owed. He asked me if I had worked in any other province of Afghanistan? And, what kind of work had I done? I was surprised by his questions.

[Tribunal member]: I don't understand. Who came and asked him these questions?

[Detainee]: The Talibs came in and asked him the questions. One of the Talibs took a letter out of their pocket and asked me to read it. The letter said to report to the First Regional Intelligence Office as soon as possible. I was afraid after I read the letter. I told them to wait a minute. I wanted to tell my friends and take care of my business before I left. They told me I had to leave now. I told the interrogators this the first time I spoke with them. For some reason, the interrogators misunderstood what I told them. I have told you the true story. When I got in the taxi with them to leave, they asked me if I knew Ali Jahn? When I got to the office, they told another person to take me underground. It was a two-story building with a basement. When they took me downstairs, one side of the floor was covered in dirt and the other side was covered with empty bullet shells. They left me there alone for a long time in the dark. After dark, the recorder (the person who puts names in the book) finally showed up. They told me their boss was "pissed off" with me. I was told to talk or I was going to get beat up. I told them to take me upstairs to talk to the boss. He told me he would take me to the boss but I had to promise not to try and leave. I was very young at the time and I didn't have a beard. I was a pretty boy. Ali Jahn had come from Jalalabad to Mazar-e-Sharif. They were all gathered around and he asked me why I skipped out on him after they had sponsored me. I said I was sick and missed my family. They told me they were going to beat me up and send me to Jalalabad to court. I told them I made a mistake and asked what I could do? For one year I had to work as a chef and take care of the people in that building.

[Tribunal member]: In Mazar-e-Sharif?

Detainee: Yes. Ali Jahn told me he was fired from the customs office for trusting everyone. Ali Jahn came to Mazar-e-Sharif and got a job working in intelligence. The next day I would begin working as a chef and servant. Whenever I left the office they would follow me or send a soldier with me. I believe I was there a month and a half before Ramadan.

[The translator asks the Detainee to clarify his last statement]

[Detainee]: I was in Mazar-e-Sharif with Ali Jahn for about a month or month and a half. I didn't stay there very long you can verify that. During Ramadan, Ali Jahn told me he was leaving for fifteen days and I had to stay. I didn't know it, but Ali Jahn had taken a bribe from someone. A few days after Ali Jahn left, people from the Intelligence came and arrested everyone. They took us to the Intelligence office. I don't

know what happen to everyone else, but I was put in a separate room. The next day they asked me what I was doing there? They asked me if I was Taliban? I told them no. They asked if I was a murrah and if I had read the books? I told them no. They asked if I wasn't Taliban or murrah, what was I doing here? They told me I didn't have enough of a beard and that I was a pretty boy. That night, I told them I was Ali Jahn's friend, but I didn't tell them what kind of friend I was. I have never said this to anyone before. They asked me if I knew why I was here? I replied no. In Afghanistan, they ask your name, where you were, and what you did? They told me I was arrested and would have to go to court because Ali Jahn had taken bribes from people. I said to myself, "god what is going on, I went from the dripping to the running water." They kept me with the intelligence officer three days before moving me to a different location. They told me to cooperate and wanted me to work for them. If I didn't they told me I would have to go to court. I asked them what kind of friendship or cooperation did they want? They wanted me to take care of their friends and prepare food and cleanup. I told them I would do this instead of going to court. I was young and they were looking for boys like me and paid good money. When fighting broke out in Sanchara my brothers came to Mazar-e-Sharif with their camels. In Khamerabahn we rented a house in the Taliban area from Agi Ader Reckman. When my boss saw my brother and nephew, who are both young and pretty boys, my boss asked me who they were and why are they here? I am telling you this very hesitantly and this is something that has to be kept a secret because this is a shame in the Afghan culture to disclose this type of information. There were no other motives or anything else going on besides what I am telling you.

I'm not Hadi, I am not a professor and I am not educated. I am just an ordinary person. They gave me a free place to live. After they saw my brother and nephew, they were even more interested in us and asked us to come back and forth to the office. The house we were staying in had lots of rooms with sealed locks. Those locks were checked on a daily basis to ensure they had not been opened. The houses use to belong to the Afghani Army who opposed the Taliban. When the Afghan Army fled the Taliban took the houses. The furnishings for the homes are locked in those rooms. We did not touch any of those items. Every three months people working in the Intelligence office get rotated and new people come in. They gave me a job in the Second District with Abdul Rek Mahl and (inaudible). I worked there for six to seven months and sometimes we worked at different locations. There were rumors between the workers that I was the new boss' lover. I bought a car and every couple of months we would get to see our family. We had very little to do and we weren't quite sure of our positions or duties. We would go there for a couple hours a week and sign papers. After working for about five or six months they were toppled.

I told the interrogator in detail what happened during that time. This is my story and you guys must decide whether or not I am a criminal. I am not aware nor have I committed the charges against me. If you want to verify what I have told you, I can provide addresses. I am finished and if you have any questions, I will answer them.

[The Tribunal President asked the Personal Representative if he had any other questions for the Detainee.]

[Detainee]: No Sir. Thank you for your attention and listening to my story.

Summarized Answers in Response to Questions by the Tribunal Members

Q. When you worked for the Taliban as a chef, did you consider yourself a Tali?

A. Where was I a chef?

Q. In Mazar-e-Sharif in the Intelligence Office.

A. I was a chef at my hotel. At Mazar-e-Sharif I wasn't only a chef, I also took care of cleaning and serving. I wore the same clothes as the Taliban, so no one could tell if I was or wasn't Taliban.

Q. Did they consider you Talib?

A. Who?

Q. The Talib you were working for?

A. No, they didn't consider me Taliban. I wasn't educated. They knew I wasn't Taliban.

Q. Why do you think they treated you so well?

A. I don't know. The big boss was the only one that treated me well. I can't tell you what was on his mind or what his motives were.

Q. I'm sure you can understand that if you dressed like them, they gave you a nice house for your family, you made enough money to have a car that others might consider you Talib?

A. They didn't buy me a car and it's not unusual for them to bring a chef in to work for them. It is not unusual for them to pick someone off the street and bring them there. I told you before I got there when I was a very young boy and I don't know why they were nice to me.

Q. You state that it was an Intelligence office you were working at. Did you ever witness intelligence or military operations?

A. I have already told the interrogator everything. It will take me a long time to tell you everything again.

Q. That's all right. Did you ever consider yourself a prisoner of the Taliban?

A. I wasn't physically in handcuffs but because I was watched all the time I felt mentally and psychologically I was a prisoner. Before my family came back from Sanchara, I wasn't able to leave. Once my family returned, they were more assured I wouldn't leave.

Q. They treated you rather well for being a prisoner. Did you agree to work with them?

A. You are right. They did have an ulterior motive. I can't exactly tell you what they wanted, but you should have been able to figure it out by now. I know they had a reason for treating us well.

[The Tribunal President asks the Detainee if he had any other statements or evidence to present to the Tribunal.]

[Detainee]: I told the interrogator there was no other way for me to provide any type of proof unless you can bring me someone who has worked with me or knows me. Otherwise there is nothing else. The interrogator told me it is not American justice to sit two prisoners face to face to talk for or against each other. I see in your justice system you are very educated, smart and reasonable and you should unite us. The tensions between the people over here are going to continue unless you do something about it. You are wasting your time on these people. If you have evidence against us, you need to show us and prove it. If not why are we here and our families over there? You are wasting our time over here. There is no benefit by keeping us here. By keeping us here and having us face to face will only add to the animosity and deepen the hatred. No one will provide any evidence for or against me or anyone else here.

Q. Do you have any other evidence to present to this Tribunal?

A. No.

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. I have one statement to back up. The fact the Tribunal member asked a question and I can reiterate the answer. In regards to the unclassified summary A-2 the Detainee did consider himself to be a prisoner when he worked in that office. I have that information in my notes.

[Detainee]: After I took the oath, I will not tell you anything different. I swore to God and I told you the entire story and now it is up to you guys to make the decision. I am from Afghanistan and if you ask the people there, they will confirm what I have told you is the truth. I have lots of friends in Mazar-e-Sharif who know me from my sandal shop. You can contact them and they will confirm my story. Yasam Ghoreaei is the man who

sold me the sandals. He can check his book and confirm my story. His shop is at the very end of the street.

AUTHENTICATION

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



Col, USAF

Tribunal President

Unclassified

Combatant Status Review Board

8 September 2004

TO: Personal Representative

FROM: OIC, CSRT

Subject: (U) Summary of Evidence for Combatant Status Review Tribunal –
RAHMAN, Fazil

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 is a member of the Taliban. He engaged in hostilities against the United States or its coalition partners.

a. The detainee is a Taliban fighter:

1. The detainee admitted he worked for the Taliban government in Afghanistan.
2. The detainee was placed in charge of the Taliban Office of Intelligence, Division #2 in Mazar-e-Sharif, Afghanistan.
3. The detainee worked as chief of the Taliban Office of Intelligence for five to six months.
4. The detainee's duties included providing security as a guard for the Taliban Office of Intelligence building in Mazar-e-Sharif.
5. The detainee was in charge of his section of the office and had two people working for him.

b. The detainee participated in military operations against the coalition.

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Page 1 of 2
2505
EXHIBIT R1

Unclassified

1. The detainee sustained shrapnel wounds on his wrist and shoulder from some time in 2000.
2. The detainee was captured by General Dostum's Northern Alliance 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.

Unclassified

Memorandum



To : Department of Defense Date 09/07/2004
 Office of Administrative Review
 for Detained Enemy Combatants
 Col. David Taylor, OIC, CSRT

From : FBI GTMO
 Counterterrorism Division
 OSC [REDACTED] 9/7/04

Subject REQUEST FOR REDACTION OF
 NATIONAL SECURITY INFORMATION
 (ISN 496)

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 496 have been redacted by the FBI and provided to the OARDEC:

- FD-302 dated 05/04/2002
- FD-302 dated 05/31/2002
- FD-302 dated 08/04/2002
- FD-302 dated 08/29/2002
- FD-302 dated 09/22/2002/3 *to 21 Sep 04*
- FD-302 dated 10/07/2002
- FD-302 dated 10/11/2002

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

²See Executive Order 12958

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/07/2004

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

DETAINEE ELECTION FORM

13 Sep 04
Schedule
Final
interview
Tribunal

Date: 13 Sep 04

Start Time: 0902

End Time: 0953

ISN#: 496

Personal Representative: [REDACTED] - Lt Col
(Name/Rank)

Translator Required? YES Language? FARSI

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 wants to participate.
Very cooperative.
Will give BOTH ORAL and written
statements, under oath.

Personal Representative: [REDACTED]



Personal Representative Review of the Record of Proceedings

I acknowledge that on 27 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #496

I have no comments.

My comments are attached.

Date: 27 Sep 04


Lt Col. , USAF
Personal Representative