

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABDUL HAKIM ABDUL RAHMAN
ABDUAZIZ AL MOUSA,

Petitioner,

v.

GEORGE W. BUSH, *et al.*

Respondents.

Civil Action No. 05-301 (GK)

DECLARATION OF TERESA A. McPALMER

Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, 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 Office for the Administrative Review of the Detention of Enemy Combatants at U. S. Naval Base at Guantanamo Bay, Cuba (OARDEC). In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

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 Abdul Hakim Abdul Rahman Abduaziz al Mousa that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or were redacted by an OARDEC staff member. This staff member also redacted information that would personally identify certain U.S. Government personnel in order to protect the personal privacy and security of those individuals.

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

Dated: 28 July 2005

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 841

29 JAN 2005

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: **REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 565**

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 #565 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:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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21 Jan 05

MEMORANDUM

From: Assistant Legal Advisor
To: Director, Combatant Status Review Tribunal
Via: Legal Advisor *gc*

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 565

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 #27 of 9 December 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 voluntarily elected not to participate. *See* exhibit D-a.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibit R-11 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 did not request that any witnesses or evidence be produced.
- e. The Tribunal's decision that detainee #565 is properly classified as an enemy combatant was unanimous.

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.

Peter C. Bradford
PETER C. BRADFORD
LT, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

9 Dec 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #27

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

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

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

MEMBERS:

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

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

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

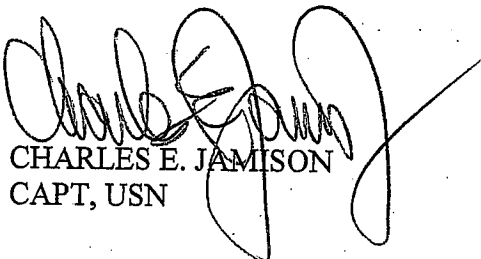
14 January 2005

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander ICO ISN 565

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].


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #27

(U) ISN#: 565

Ref: (a) Convening Order for Tribunal #27 of 9 December 2004 (U)
(b) CSRT Implementation Directive of 29 July 2004 (U)
(c) DEPSECDEF Memo of 7 July 2004 (U)

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

(U) This Tribunal was convened on 7 January 2005 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).

(U) The Tribunal has determined that Detainee #565 is properly designated as an enemy combatant as defined in reference (c).

(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.

(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

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION****(Enclosure (1) to Combatant Status Review Tribunal Decision Report)**TRIBUNAL PANEL: #27
ISN #: 565 **1. Introduction**

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

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with the al Qaida. The detainee supported al Qaida against the United States and its coalition partners. The detainee is a Saudi citizen who traveled to Afghanistan for combat training. The detainee received military training for a month at a house in Kandahar, Afghanistan. The detainee stayed at a safehouse operated by Sharqawi Abdu Ali. Sharqawi Abdu Ali is a known al Qaida facilitator. The detainee possesses knowledge of al Qaida safehouse locations, facilitators, modes of travel utilized to transport fighters between safehouses and people the al Qaida safehouse system has protected. The detainee has specific knowledge about the forging of entry/exit passport stamps used to aid al Qaida fighters exit from Pakistan after fleeing Afghanistan. The detainee is closely associated with Abu Zubaydah and Riyadh the facilitator. Abu Zubaydah is a senior al Qaida lieutenant. Sharqawi Abdu Ali al-Hajj also known as Riyadh the facilitator was a Karachi-based facilitator for al Qaida members knowledgeable of al Qaida's terrorists plans, command and control, general al Qaida facilitation practices, and the location of senior al Qaida officials including Usama bin Ladin. Sharqawi Abdu Ali al-Hajj was an integral part of a powerful al Qaida network focusing on moving Arabs to and from Afghanistan and is involved with the planning of future terrorist attacks. The detainee possesses information regarding the true name and location for a Wafa office director. The Wafa humanitarian organization is both an Islamic charity and front organization that funnels logistical and financial support to Islamic extremists, and is listed on the Secretary of State's Terrorist Exclusion list. The detainee was arrested with several al Qaida members including, Riyadh "The Facilitator." The Detainee chose not to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made no statement.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, R-1 through R-21.
- b. Testimony of the following persons: None.
- c. Statement of the detainee: None.

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

The Detainee requested no witnesses and requested no 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 thru R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence.

b. Exhibit R-3 identified the Al-Wafa al-Igatha al-Islamia organization on the Terrorist Exclusion List, however, it did not provide any details specific to the Detainee's case. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

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 deemed appropriate.

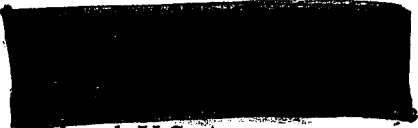
b. The detainee understood the Tribunal proceedings, but chose not to participate in the Tribunal process, as indicated in Exhibit D-a. The Tribunal questioned the Personal Representative closely on this matter and was satisfied that the Personal Representative had made every effort to ensure that the Detainee had made an informed decision.

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


8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army
Tribunal President


DETAINEE ELECTION FORMDate: 3 JAN 05Start Time: 0935End Time: 1000ISN#: 565Personal Representative:  LTC, US ARMYTranslator Required? YES Language? ARABICCSRT 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 not participate and requested that the PR not represent him.

NOTE: Detainee made this request three times.

Personal Representative: 

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (29 December 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL MOUSA, Abdul Hakim Abdul Rahman Abduaziz

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 supported al Qaida against the United States and its coalition partners.
 - a. The detainee supported al Qaida against the United States and its coalition partners:
 1. The detainee is a Saudi citizen who traveled to Afghanistan for combat training.
 2. The detainee received military training for a month at a house in Kandahar, Afghanistan.
 3. The detainee stayed at a safehouse operated by Sharqawi Abdu Ali.
 4. Sharqawi Abdu Ali is a known al Qaida facilitator.
 5. The detainee possesses knowledge of al Qaida safehouse locations, facilitators, modes of travel utilized to transport fighters between safehouses and people the al Qaida safehouse system has protected.
 6. The detainee has specific knowledge about the forging of entry/exit passport stamps used to aid al Qaida fighters exit from Pakistan after fleeing Afghanistan.
 7. The detainee is closely associated with Abu Zubaydah and Riyadh the facilitator.
 8. Abu Zubaydah is a senior al Qaida lieutenant.

EXHIBIT R- /

9. Sharqawi Abdu Ali al-Hajj also known as Riyadh the facilitator was a Karachi-based facilitator for al Qaida members knowledgeable of al Qaida's terrorists plans, command and control, general al Qaida facilitation practices, and the location of senior al Qaida officials including Usama bin Ladin.
10. Sharqawi Abdu Ali al-Hajj was an integral part of a powerful al Qaida network focusing on moving Arabs to and from Afghanistan and is involved with the planning of future terrorist attacks.
11. The detainee possesses information regarding the true name and location for a Wafa office director.
12. The Wafa humanitarian organization is both an Islamic charity and front organization that funnels logistical and financial support to Islamic extremists, and is listed on the Secretary of State's Terrorist Exclusion list.
13. The detainee was arrested with several al Qaida members including, Riyadh "The Facilitator".
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.

Memorandum



To : Department of Defense Date 12/27/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

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

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

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

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

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

The following documents relative to ISN 565 have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 07/20/02
FD-302 dated 05/15/02

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

²See Executive Order 12958

EXHIBIT R-2

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Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 12/27/2004

If you need additional assistance, please contact Asst.
Gen. Counsel [REDACTED] ([REDACTED]),
[REDACTED] or Special Agent [REDACTED]
([REDACTED])

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Office of the Coordinator for Counterterrorism
Washington, DC
November 15, 2002

Terrorist Exclusion List

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;

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EXHIBIT R-3013

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- 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

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- 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. (f.k.a. Al Taqwa Trade, Property and Industry; f.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 (f.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 Afghanistan)
- 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)

Personal Representative Review of the Record of Proceedings

I acknowledge that on 12 January 2005, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #565.

☒ I have no comments.

☐ My comments are attached.

 LT COL, USA
Name

12 JAN 05
Date


Signature

ISN #565
Enclosure (5)