

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AYMAN SAEED ABDULLAH BATARFI,)

Petitioner,)

v.)

Civil Action No. 05-CV-0409 (EGS)

GEORGE W. BUSH, *et al.*,)

Respondents.)

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 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 Ayman Saeed Abdullah Batarfi 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: 4 Aug 05

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



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 727
23 JAN 2005

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From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 627

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 # 627 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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18 Jan 05

MEMORANDUM

From: Assistant Legal Advisor

To: Director, Combatant Status Review Tribunal

Via: Legal Advisor *SLC*Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 627Ref: (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 # 15 of 12 October 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. Attempts were made to provide the detainee with the unclassified summary of evidence. However, the detainee refused to leave his cell to meet with his Personal Representative. Force protection procedures for the detainee's facility prohibit him from receiving verbal or written information while he is in his cell. After consulting with the CSRT Assistant Legal Advisor, the Personal Representative requested that the camp guards advise the detainee that if he wanted to participate in the Tribunal process, he needed to meet with his Personal Representative. The guards did so, but the detainee continued to refuse to leave his cell.

The detainee's refusal to cooperate prevented the usual notice procedures. The detainee spoke and understood English so there was no question that he understood the guards. The detainee was mentally and physical capable of participating in the proceedings. In my opinion, the detainee had effective notice of the Tribunal proceedings and no corrective action is needed.

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

c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-3 and R-4 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.

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Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 627

- e. The Tribunal's decision that detainee # 627 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.


BREE A. ERMENTROUT
CDR, JAGC, USNR



Department of Defense
Director, Combatant Status Review Tribunals

12 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #15

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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

MEMORANDUM FOR DIRECTOR, CSRT

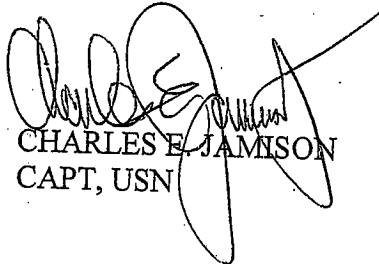
22 November 2004

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 627

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 (3).

(U) TRIBUNAL PANEL: #15

(U) ISN#: 627

Ref: (a) (U) Convening Order for Tribunal #15 of 12 October 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis for Tribunal Decision (U//~~FOUO~~)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Copies of Documentary Evidence Presented (S/NF)
(4) (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 12 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #627 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida and 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).


Tribunal President

Colonel, USAF

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #15
ISN #: 627 **1. Introduction**

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and was part of or supporting 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 evidence presented to the Tribunal by the Recorder indicated that the detainee was an al Wafa official who purchased medical and other supplies for the Taliban. The detainee was also reported to have had contact with Usama Bin Laden and senior al Qaida personnel while in Afghanistan from July to November 2001. He was also present during military operations in the Tora Bora Mountains and carried communications equipment. The detainee chose not to participate in the Tribunal process. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-13.
- b. Testimony of the following persons: none.

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

The Detainee requested no witnesses: No rulings were required.

The Detainee requested no additional evidence be produced: No rulings were required.

5. Discussion of Unclassified Evidence

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

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 provided no usable evidence. Accordingly, the Tribunal had to look primarily to classified exhibits for support of the Unclassified Summary of Evidence.

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

The Tribunal consulted the CSRT Legal Advisor during the course of this hearing on the following matters.

a. The detainee refused to leave his cell to meet with the Personal Representative (PR). There was no reason to believe that the detainee was mentally or physically unable to meet with the PR. The PR consulted with the Assistant CSRT Legal Advisor who advised the PR to request the detainee's guards to inform the detainee of the purpose of the meeting and offer him a second opportunity to leave his cell and meet with the PR. The guards stated the detainee still refused. As noted in detainee records, he spoke and understood English so there was no question that he understood the guards.

b. The CSRT notification letter provided to the detainee in July 2004 required that the detainee be provided a written unclassified summary of the evidence. However, in this case, this was not possible because the detainee refused to leave his cell. The force protection procedures in place for this detainee's assigned facility did not permit the detainee to receive either written or verbal material while he is in his cell. Since the detainee voluntarily declined to leave his cell in order to meet with the PR to receive this information, after being informed of the purpose of the PR's visit, the detainee elected to not receive the unclassified summary of evidence.

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.

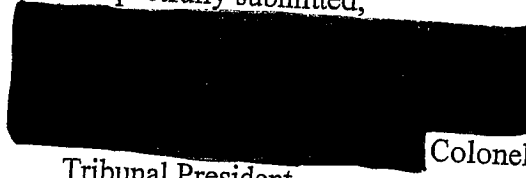
b. The detainee chose not to participate in the Tribunal process, as indicated in Exhibit D-a.

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

8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Tribunal President

Colonel, USAF

DETAINEE ELECTION FORM

Date: 9 Nov 2004

Start Time: N/A

End Time: N/A

ISN#: 627

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

Translator Required? YES Language? ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? NO - SEE BELOW

Detainee Election:

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

Personal Representative Comments:

Note: This detainee refused to leave his cell for the initial OARDEC interview. On advice from OARDEC legal council, I asked the camp guards to go back to his cell and tell the detainee that his OARDEC personal representative was here to talk about the CSRT tribunal process. The detainee was told that if he wanted to participate in his tribunal he needed to come to the interview. He was told that the tribunal will still be held in his absence even if he refuses to come out of his cell. The guards returned and told me he still refuses to leave his cell for the interview. I can only assume from the detainee's actions that he does not want to participate in the tribunal process or attend his tribunal. The OARDEC legal council confirmed that this detainee was read the CSRT notice in July 2004.

Personal Representative: [REDACTED]

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Exhibit D-a

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (02 November 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – BATARFI, Ayman Saeed Abdullah

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.

2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."

3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is a member of al Qaida, supported the Taliban and al Qaida against the United States and its coalition partners, and participated in military operations against the United States and its coalition partners.

a. The detainee is a member of al Qaida and supported the Taliban and al Qaida against the United States and its coalition partners:

1. The detainee entered Afghanistan and went to Jalalabad, until the Northern Alliance approached, at which time he fled to the Tora Bora Mountains and hid with other Arabs trying to flee Afghanistan.

2. The detainee is a former al Wafa official.

3. Al Wafa, a non-governmental organization, officially named al Wafa al Igatha al Islamia (Wafa Humanitarian Organization) and headquartered in Saudi Arabia, has connections to Usama Bin Ladin and Afghan Mujahidin.

4. The detainee purchased medical supplies for al Wafa and sent them to Afghanistan.

5. On approximately 30 November 2001, the detainee personally met with Usama Bin Laden (UBL) in Tora Bora.

6. In July 2001, the detainee stayed in a Quetta Taliban guesthouse.

7. The detainee associated with a senior al Qaida operative and facilitator.

8. The detainee stated that he met with Usama Bin Laden on a number of occasions.

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Page 1 of 2

Exhibit 12-1

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9. The detainee advised that he was involved in the purchase of three (3) vehicles in Herat for the Taliban and he purchased medical equipment for the Taliban.

b. The detainee participated in military operations against the United States and its coalition partners:

1. The detainee arrived in the Tora Bora Mountains in mid-November 2001.
2. The detainee carried a gun while he was in the Tora Bora Mountains.
3. The detainee carried a walkie-talkie during his time in the Tora Bora Mountains in November 2001.
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



Date

To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

Date 10/29/2004

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

- ✓ FD-302 dated 05/28/02
- ✓ FD-302 dated 08/13/02

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

²See Executive Order 12958

Memorandum from [REDACTED] to Capt. Charles Jamison
Re: REQUEST FOR REDACTION, 10/29/2004

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

Personal Representative Review of the Record of Proceedings

I acknowledge that on 16 November 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #627.

☒ I have no comments.

☐ My comments are attached.



Major, USAF

16 Nov 2004
Date

ISN #627
Enclosure (4)