

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ZABAN THAAHER ZABAN
AL SHAMAREE
Petitioner,

v.

GEORGE W. BUSH,
President of the United States,
et al.,
Respondents.

Civil Action No. 05-0520 (RMU)

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 of 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 Zaban Thaaher Zaban al Shamaree that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto or have been redacted. An OARDEC staff member redacted information that would personally identify U.S. Government personnel or other individuals in order to protect the personal security of those individuals. This staff member also redacted internment serial numbers because certain combinations of internment serial numbers with other information relates to sensitive

internal and intelligence operations that is not suitable for public release.

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

Dated: 19 May 2005

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



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0401
18 NOV 2004

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From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # [REDACTED]

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

NSC (Mr. John Bellinger)
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MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal


Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 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 affirmatively elected not to participate in 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, and R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information in R-4, R-5, and R-6 would not support a determination that the detainee is not an enemy combatant. The information redacted from exhibit R-3 apparently consists of names only.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



James R. Crisfield Jr.
CDR, JAGC, USN

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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:

██████████, Colonel, U.S. Air Force; President

██████████, Lieutenant Colonel, U.S. Air Force; Member
(JAG)

██████████, Lieutenant Commander, U.S. Navy; Member

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

27 September 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# [REDACTED]

1. Pursuant to Enclosure (1), paragraph (I)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

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**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #5
ISN #: **[REDACTED]**

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 with ties to 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 associated with the Taliban and al-Qaida. The summary also stated the following:

- a. The Detainee received training at **[REDACTED]** training camp in Kandahar arriving just after 11 September 2001.
- b. The Detainee continued his training at **[REDACTED]** after the U.S. bombing campaign began.
- c. The Detainee received training on the Kalashnikov rifle, pistols, rocket propelled grenades, and the Russian automatic Beka.
- d. The Detainee later transferred to a military camp outside Kabul where he was injured by shrapnel
- e. The Detainee was captured by the Northern Alliance troops while he was convalescing in a hospital in Kabul.

The detainee chose not to participate in the Tribunal process. He specifically told the Personal Representative not to submit any information on his behalf.

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-11.
- b. Testimony of the following persons: None

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

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ISN # **[REDACTED]**
Enclosure (1)
Page 1 of 3

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 provided no usable evidence.

b. The Detainee affirmatively declined to participate in the Tribunal and specifically asked the Personal Representative not to submit any information on his behalf. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

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. he asked no questions regarding his rights and actively participated in the hearing.

c. The detainee is properly classified as an enemy combatant and was a member of al-Qaida with ties to the Taliban.

8. Dissenting Tribunal Member's report


None. The Tribunal reached a unanimous decision.

Respectfully submitted,



, Colonel, USAF
Tribunal President

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ISN # 
Enclosure (1)
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DETAINEE ELECTION FORM

Date: 23 Sep 04

Start Time: 1455

End Time: 1531

ISBN#:

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

Translator Required? YES

Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee declines participation in Tribunal:

Detainee further informed Personal Representative to say nothing on his behalf at Tribunal.

Personal Representative:

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EXHIBIT D-A

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Recorder Exhibit List
For
ISN XXXXXXXXXX

#	Title	Location	Classification
R1	Unclassified Summary		UNCLASSIFIED
R2	FBI Certification Re: Redaction of National Security Information dtd 16 Sept 04		UNCLASSIFIED
R3	CITF Form 40 dtd 10 Apr 03	3a1,	FOUO//LES
R4	FBI-302 dtd 19 Jun 02	3a1,3a4,3a5,3a6	FOUO//LES
R5	FBI-302 dtd 11 Nov 02	3a1,	FOUO//LES
R6	FBI-302 dtd 26 Jun 02	3a2,	FOUO//LES
R7	JTF-GTMO Baseball Card		SECRET//NOFORN
R8	CITF-CDR MEMO dtd 24 Mar 04	3a3	SECRET//NOFORN
R9	IIR 6034095504[1]		SECRET//NOFORN
R10	Analyst Support Package		SECRET/NOFORN
R11	OSD SO/LIC EC Assessment dtd 08 June 02		SECRET/NOFORN

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (13 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL SHAMMARI, ZIBN THAHIR ZIBN AL FADHILI

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 associated with the Taliban and al Qaida.

a. Detainee is associated with the Taliban and al Qaida.

1. Detainee left his home in Saudi Arabia to travel to Afghanistan in late summer 2001. He traveled to Afghanistan because he wanted to train to fight Jihad.
2. Detainee received his initial training at the [REDACTED] training camp in Kandahar arriving just after the 11 September 2001 attacks.
3. The detainee continued his training at the [REDACTED] after the US Bombing campaign began.
4. At [REDACTED], detainee received the following training: physical conditioning and weapons training on the Kalashnikov, pistols, RPG, and Russian automatic Beka.
5. The detainee later transferred to a military camp outside Kabul where he was injured in the shoulder, hand, and leg by shrapnel.

Unclassified

6. Detain was captured by the Northern Alliance troops, while he was convalescing in a hospital in Kabul. The Northern Alliance delivered the detainee to United States 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
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

Date 09/08/2004

From : FBI GTMO
Counterterrorism Division [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION

(ISN [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 [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 06/19/2002

FD-302 dated 06/26/2002

FD-302 dated 11/11/2002

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, 09/08/2004

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

Personal Representative Review of the Record of Proceedings

26 Sep 04
I acknowledge that on 25 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED].

☒ I have no comments.

☐ My comments are attached.

[REDACTED]
Name

26 Sep 04
Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (5)

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