

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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)	
JAMIL EL-BANNA, <i>et al.</i>,)	
)	
<i>Petitioners,</i>)	
)	CASE NO. 1:04-CV-01144 (RWR)
v.)	
)	
GEORGE W. BUSH, <i>et al.</i>,)	
)	
<i>Respondents.</i>)	
)	

**NOTICE OF FILING OF PUBLIC VERSION OF DOCKET NO. 53,
FACTUAL RETURN OF BISHER AL-RAWI**

Petitioner Bisher Al-Rawi and Respondents file the attached public version of the factual return filed in this case on October 22, 2004 (Docket No. 53) that was subsequently ordered sealed by the Court. The Factual Return contains redactions made by Petitioners consistent with the Court’s Order Addressing the Sealing of Material to protect the personal safety of individuals. The redactions made by Respondents in the Factual Return are the same as those made by Respondents in Docket No. 53, and such redactions were made for the reasons explained in the Declaration of James R. Crisfield, Jr., contained in the Factual Return.

Dated: November 1, 2004

Respectfully submitted,

/s/ Douglas J. Behr
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
JAMIL EL-BANNA, <i>et al.</i>)		
)		
Petitioners,)		
)		
v.)	Civil Action No. 04-CV-1144 (RWR)	
)		
GEORGE W. BUSH,)		
President of the United States,)		
<i>et al.</i> ,)		
)		
Respondents.)		
_____)	

**RESPONDENTS' FACTUAL RETURN TO PETITION FOR WRIT OF HABEAS
CORPUS BY PETITIONER BISHER AL-RAWI**

Respondents hereby submit, as explained herein, the record of proceedings before the Combatant Status Review Tribunal pertaining to petitioner Bisher Amin Khalil Al-Rawi (listed in the petition as Bisher Al-Rawi) as a factual return to petitioner's petition for writ of habeas corpus. See Exhibit A. For the reasons explained in the record, petitioner Bisher Amin Khalil Al-Rawi has been determined to be an enemy combatant. Accordingly, petitioner Bisher Amin Khalil Al-Rawi is lawfully subject to detention pursuant to the President's power as Commander in Chief or otherwise, and is being detained.

The portion of the record suitable for public release is attached hereto, and the remaining portions of the record, including information that is classified or not suitable for public release, will be filed under seal and made available to petitioner's counsel upon the entry of a protective order governing such information by the Court, and the issuance of security clearances to petitioner's counsel.

Respondents reserve the right to rely, in addition to the complete record, on legal grounds for petitioner Bisher Amin Khalil Al-Rawi's continued detention, presented in briefing opposing the petition for writ of habeas corpus in accordance with a schedule determined by the Court.

Dated: October 21, 2004

Respectfully submitted,

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United States Attorney

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Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BISHER AMIN KHALIL)	
AL RAWI, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 04-CV-1144 (RWR)
)	
GEORGE W. BUSH,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	
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DECLARATION OF JAMES R. CRISFIELD JR.

Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

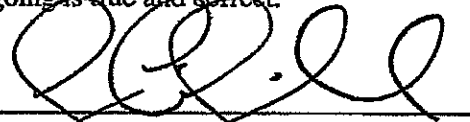
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Bisher Amin Khalil Al Rawi that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached

hereto. I have redacted the names and addresses of detainee family members and information that would personally identify certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance. In addition, some redactions in exhibits D-G and D-H were made by persons unknown prior to those documents being reviewed by the Tribunal members.

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

Dated: 21 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



**Department of Defense
Director, Combatant Status Review Tribunals**

OARDEC/Ser: 0247
20 October 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.

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)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

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19 Oct 04

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 2004

Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

1. A 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.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with the provisions of references (a) and (b). Note that some information in exhibit R-6 and R-7 was redacted. The FBI properly certified in exhibit R-2 that none of the redacted information would support a conclusion that the detainee is not an enemy combatant.
- d. The detainee requested that seven witnesses be produced to testify at the tribunal.

The detainee claimed that three of the witnesses [REDACTED] could testify [REDACTED]. The Tribunal President determined that these three witnesses were relevant and instructed the Recorder to attempt to locate them. These efforts proved futile [REDACTED]. [REDACTED] The President therefore determined that these three witnesses were not reasonably available.

The detainee claimed that three other witnesses would testify that they were captured along with the detainee in Gambia; were not told that they were under arrest; were not informed of their status; and were told that American officials were in charge of their interrogations. Additionally, one of these three would testify that he was allowed to go

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

free. The Tribunal President determined that none of the expected testimony was relevant to the Tribunal's decision and denied the request for these three.

Finally, the detainee claimed that the seventh witness would testify that the accusations listed in the unclassified summary do not constitute crimes under the laws of the United Kingdom. The President determined that this testimony would be irrelevant to the Tribunal.

In my opinion, all of the Tribunal President's determinations regarding witnesses were correct and proper.

During the Tribunal the detainee also requested certain evidence that he had in his cell. The evidence was obtained and submitted to the Tribunal. There is also a reference in the transcript of the Tribunal to a "second request" to "get statements from the officials in Gambia." See page 26 of enclosure (3) to the Tribunal Decision Report. I can find no other information about such a request in the record. I assume, since this was described as a "new witness request," that it was an untimely request related to the detainee's arrest in Gambia. I will also assume that it was similarly irrelevant to the Tribunal's decision. The detainee made no other requests for 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.

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



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

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

14 October 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.

A handwritten signature in black ink, appearing to read "D.L. Taylor".

DAVID L. TAYLOR
Colonel, USAF

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(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#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #5 of 17 Aug 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/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U)

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 25 Sep 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] 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, 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).

[REDACTED]

Col, USAF

Tribunal President

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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. 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 the evidence presented to the Tribunal by the Recorder indicated that the detainee is associated with al Qaida in that he provided safe harbor, support, and money transfers for Abu Qatada, a senior al Qaida figure. The detainee chose to participate in the Tribunal process. He requested seven witnesses, and requested no unclassified or classified documents be produced. He made a sworn verbal statement. The Tribunal President found the proffered testimony of the requested witnesses not relevant to the question of whether the detainee is properly classified as an enemy combatant, and denied the witness request. The detainee, in his verbal statement, explained his background and associations with Abu Qatada at great length. He denied being a member of al Qaida, but admitted providing support to Abu Qatada on several occasions. 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 through D-G and R-1 through R-34.
- b. Testimony of the following persons: none
- c. Sworn statements of the detainee. During his initial statement, the detainee requested that he be allowed to submit certain documents that were located in his cell. After viewing the submitted evidence, the Tribunal President decided to allow the submission of these documents and other classified information. The panel then

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reconvened to accept the submission of these documents and gave the detainee the opportunity to make another sworn statement.

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

The Detainee requested the following witnesses:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
Alex	not reasonably avail./denied	no*
Matthew	not reasonably avail./denied	no*
Martin	not reasonably avail./denied	no*
Detainee # [REDACTED]	not relevant/denied	no**
[REDACTED]	not relevant/denied	no**
Abdula Janudi	not relevant/denied	no**
Gareth Peirce	not relevant/denied	no***

* The detainee proffered that these three witnesses are [REDACTED] and knew him. Further, he said that [REDACTED]

[REDACTED] The president initially disapproved these witnesses, ruling that the proffered testimony was not relevant to the question of whether the detainee is properly classified as an enemy combatant. However, during the hearing, the detainee more fully explained the relevancy of the witnesses and the President reversed his decision and found them relevant. He directed the Recorder to attempt to locate these witnesses and invite them to testify. [REDACTED]

[REDACTED] the witnesses could not be identified. The Tribunal President was therefore forced to deny the witness request because the witnesses were not reasonably available.

** The detainee proffered that these witnesses would testify that when they were captured along with the detainee in Gambia they were not told that they were arrested, were not given any "legal status," and that American officials were running the show and interrogating them. Further, [REDACTED] would testify that he was with the group at the time of capture and was let go. The president denied these witness requests, ruling that even if these individuals testified as proffered, their testimony would not be relevant to the question of whether the detainee is properly classified as an enemy combatant.

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*** The detainee proffered that this witness is his attorney and would testify that what he is being accused of in the unclassified summary of evidence is not illegal in Britain. The president denied this request, ruling that even if the witness were to testify as proffered, his testimony would not be relevant to the question of whether the detainee is properly classified as an enemy combatant.

The Detainee requested no additional evidence be produced; no rulings were necessary.

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-5 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. Exhibit R-3 is Executive Order 13224. This exhibit was helpful in that it provided the Tribunal with the current list of terrorists and terrorist groups identified by the United States government. The significance of this list was more fully explained during the classified portion of the hearing. Exhibits R-4 and R-5 were articles that provided background regarding the detainee's travels to and capture in Gambia. These articles were somewhat helpful in that they corroborated the detainee's travels and gave the Tribunal a source from which it could direct certain inquiries toward the detainee during his statements. Primarily, however the Tribunal had to look to classified exhibits and the detainee's statement for support of the Unclassified Summary of Evidence.

The most significant 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 he was, in fact, associated with Abu Qatada. The detainee spoke at length about his close association with Abu Qatada, and admitted that he found an apartment for Abu Qatada at the latter's request when Mr. Qatada decided to go into hiding in London. The detainee further admitted that he therefore knew where Abu Qatada was when he was wanted by British authorities, and visited Mr. Qatada several times while he was in hiding. He also delivered messages to and from Mr. Qatada during this period.

[REDACTED]

[REDACTED] The Tribunal [REDACTED] more importantly, felt that the detainee's motivations for finding an apartment for Mr. Qatada and not revealing his location were not relevant to the CSRT process, which does not contemplate the *mens rea* of a detainee. The important facts, for

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CSRT purposes, were that the detainee did find an apartment for and fail to reveal the location of, this important al Qaida leader. Further, classified information revealed a much more involved relationship than the detainee was willing to admit. Please see the classified evidence for more details. The detainee also admitted transferring funds for Abu Qatada, but claimed that he sent money only to Abu Qatada's father a few times. He said this money was meant to help the poor in Jordan. This explanation also conflicted with certain classified information. Finally, the detainee claimed that his trip to Gambia was for the purpose of setting up a peanut processing business. The Tribunal did not believe this portion of the detainee's statement, and felt it was a contrived "cover story" rather than his actual reason for traveling to Gambia. This conclusion resulted from several factors, including the fact that the detainee and his partners had absolutely no prior knowledge of the peanut processing business, the proximity of this trip to the capture of Abu Qatada in Great Britain, and certain other factors raised in the classified evidence.

In summary, the Tribunal found that the unclassified evidence showed that the detainee was a close associate of Abu Qatada, a known al Qaida figure. The detainee provided direct support to Mr. Qatada, enabling Mr. Qatada to continue his active participation in al Qaida activities. Therefore, the detainee meets the definition of an enemy combatant found in the CSRT Implementing Directive. This conclusion was supported by the classified 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

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 many questions regarding his rights, expressed many concerns, commented intelligently on the evidence, and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida.

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8. Dissenting Tribunal Member's report


None. The Tribunal reached a unanimous decision.

Respectfully submitted,



, Col, USAF
Tribunal President

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Summarized Sworn Detainee Statement

When asked by the Tribunal President the detainee stated he understood the CSRT process and he did not have any questions.

When the Tribunal President asked if the Detainee had any questions concerning the Tribunal process, the Detainee commented he was concerned with the amount of time he was given to prepare for the process.

Detainee: Yesterday, I met with my Personal Representative (PR) for about two hours and today I met with him for approximately 30 minutes. I feel for such a serious matter that could determine my faith, the system is flawed. I understand the wording from the script you have read, but I don't believe the script is straightforward.

Tribunal President: Is there any part in particular? Would you like me to read through it again and try to explain the terms as I go?

Detainee: I think going through it again would be a good idea. There are some terms I would like to ask about, mainly the accusations I have been accused of.

President: We want you to understand the process and what we are going through here, so I will go through this one more time.

Detainee: I am not one hundred percent sure on what you mean by the definition of 'enemy combatant?' I read it earlier with my PR, but I would like to have a better understanding of the process.

[The Tribunal President reads the definition of an 'enemy combatant' to the Detainee.]

President: One thing I would like you to understand, the panel has not seen any of the evidence against you. At this point, you may be right that you have not properly been classified as an enemy combatant. We have not yet had a chance to view the evidence to say you are or aren't from this point of view. You have been classified as an enemy combatant by the United States. Are job is to do an administrative review of this classification to ensure it was done properly. That is what we are here to do today.

Detainee: I still don't fully understand the actions I have committed, to be classified as an enemy combatant. I have read the definition of "enemy combatant" several times. I find it to be very vague and too have many meanings. For instance, I carried a weapon with your enemy, so I am an enemy combatant. I would like to fully understand this, so I can defend myself.

President: As you have heard from the Oath we took, we are to apply our common sense, our knowledge, our sense of justice to this definition and to you, in order to come to a conclusion as to whether you have been properly classified as an enemy combatant or not. That is what we are going to do today. We are going to go over the evidence that

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the government provided. You are going to see the unclassified portion. I am going to make an assumption at this point there is classified evidence you won't be able to read, but I think the important thing for you to do is to tell us your story, your truths and then we will weigh that against the evidence and we will try and put it all together. Your faith is in our hand if you will, it is designed to be a broader definition than specific incidents because no one individual would meet all specific incidents. It is a broad definition, but we will apply our professional judgment, we will apply good common sense and we will give you an honest and fair opportunity to defend yourself.

Detainee: Thank you.

When asked by the Tribunal President if the Detainee was ready to proceed, the Detainee stated, "yes."

[After the Unclassified evidence was submitted to the Tribunal panel, The President took a recess to allow the PR to go over exhibits R-4 and R-5 with the Detainee; when it was discovered the PR had not previously seen the exhibits.]

[The Tribunal President explained for the record:] The Detainee requested seven witnesses; three witnesses were requested to testify concerning his arrest that were told you were not arrested at the time of your detention. Since the conditions of his arrest are not a factor as to whether or not he is an enemy combatant, these witnesses are deemed not relevant. Therefore, the requests for those witnesses have been denied. The Detainee also requested three witnesses [REDACTED]

[REDACTED] That request was denied.

Detainee: [referring to the Unclassified Summary of the Evidence, marked as Exhibit R-1, (hereinafter referred to as "Exhibit R-1")] Paragraph 3.a.5: In addition to helping Abu Qatada evade British authorities, the detainee transferred funds between branches of the Arab Bank at Abu Qatada's direction in 1999 and 2000. [REDACTED]

Detainee: Do you want me to go through this now or wait until later when I can go over each individual point?

President: Why don't you do it later during your sworn statement. At this time, [REDACTED] I still determine they are not relevant at this point.

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Detainee: [REDACTED]

[Tribunal member makes a suggestion to listen to the Detainees sworn statement and then, at a later point, make a determination on the relevancy of the witness.]

President: The Detainee requested his lawyer testify 'that what he has been accused of in the summary of evidence is not illegal in Britain'. This is not a legal proceeding and the testimony has no relevance on this proceeding. The request for the witness is denied.

Detainee: The part that says I transferred funds under the direction of Abu Qatada. The money went to Abu Qatada's father who I would like to testify to this, since he actually received the money and what the money was used for.

Tribunal President: Because of the short time you had to prepare for this Tribunal (that you interjected earlier), I will hold that witness into consideration as well, and if I feel it will be relevant to the decision, I will reconsider that witness request."

Detainee: Thank you.

[The Tribunal President asked the Detainee if he could provide information on where Abu Qatada's father is located? The Detainee stated he was in Jordon and he could possibly provide an oral statement. The President commented he just wanted to make sure the Detainee could provide a location if he was determined to be relevant.]

When asked by the Tribunal President if he wanted to make a statement the detainee stated yes and provided his statement after electing to be sworn. The detainee testifies essentially as follows:

[Regarding Exhibit R-1, paragraph 3.a.1. (The Detainee provided harbor in London, United Kingdom to a know al Qaida fugitive in the name of Abu Qatada.)]

Detainee: Please clarify the word 'harbor', so I can understand the accusation.

President: In this case, I would look at the word to mean shelter, to hide him from authorities, protection.

Detainee: Abu Qatada is Jordanian and has lived in Britain for several years after being granted political asylum by the British authorities. Abu Qatada is a preacher and my friend. Many consider him a fundamentalist. The authorities don't necessarily like what he said, but he was never arrested for it. Before September 11th Abu had appeared on television, but after September 11th, he became very well known in the media and made several television appearances. My involvement with Abu started as it has with many people in the community. Because I speak English, I have been asked to translate for people. The same is true for Abu. He has asked me to translate for him and because I am handy around the house, he asked me to help him with repairs. I have listened to Abu

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preach, as well as many others. Over the years we have become friends. As I said previously, when he gets in touch with me it is usually for a specific reason (translating or home repairs).

Detainee: Before my trip to Africa and subsequent kidnapping, Britain did not classify Abu Qatada as al Qaida. [REDACTED]

Detainee: "My mother told me to stay away from al Qaida."

[Detainee continued his statement:]

[REDACTED]

I have lived in Britain for 18 years; and I don't have a criminal record. Nothing indicated Abu was involved with al Qaida. I only learned about the word 'al Qaida' after 11 September. Abu was not wanted by the police, when I helped him find a place to live. Several times I tried to end my association with Abu, but after a few months passed, he would call and say he needed my help and the relationship would start again. I never saw anything that indicated he was a real threat. The reason my family (and others) chose to live in the western world was for freedom.

[Exhibit R-1, paragraph 3.a.2 (The Detainee assisted Abu Qatada by locating an apartment where Abu Qatada hid from British authorities.)]:

Yes, I have told you I found an apartment for Abu. I don't deny it. When I was young, people saw my father as being a bad person because he was arrested by the Iraqi Secret Police. I made a conscience decision not to abandoned Abu Qatada.

After 11 September life changed. The British government passed a law that allowed authorities to indefinitely detain anyone they felt uncomfortable with. However, if the individual chose, they could leave Britain for another country. After this law passed, Abu disappeared. I had no idea where he was. [REDACTED]

[REDACTED] Overtime, someone from the community told me Abu wanted to see me and I met him a mosque.

Tribunal member: When you say community, are you referring to the Muslim community?

Detainee: Yes, the Muslim community in London.

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[REDACTED]

[Exhibit R-1, paragraph 3.a.3. (Abu Qatada has strong links to senior al Qaida operatives and facilitated the travel of individuals to an al Qaida guesthouse located in Pakistan.)]

[Detainee stated he would read from his notes:]

I was not aware of Abu's alleged activities nor did I participate in them in any way. I don't recall Abu ever asking me to do anything illegal. In fact, the type of assistance I provided to Abu (which I mentioned earlier) is not considered illegal anywhere in the world. I didn't do anything for Abu that I haven't done for other people in my community. Additionally, I have never traveled to Pakistan or Afghanistan (until the United States kidnapped me and put me on a flight to Afghanistan). I have never had any military training. If Abu was sending people to Afghanistan, he never mentioned it to me.

[Exhibit R-1, paragraph 3.a.4 (Abu Qatada is a known al Qaida operative who was arrested in the United Kingdom as a danger to national security.)]

Detainee: For argument sake, lets say Abu was a threat to national security. I was known to be Abu's friend before and after his arrest. The British authorities knew me very well. I never hid, or tried to hide from them. I always used my full name. If I presented such a threat, I would have thought they would have arrested me. I was never arrested. I think the law that was passed in London is relevant. If people are such a threat, then why does the law allow them to leave the country?

[Exhibit R-1, paragraph 3.a.5 (In addition to helping Abu Qatada evade British authorities, the Detainee transferred funds between branches of the Arab Bank at Abu Qatada's direction in 1999 or 2000.)]

Detainee: As for the word direction, for Abu or anyone else who wanted me to do something for them, all they had to do was ask me very nicely. Yes, on a few occasions, I transferred between two and three thousand dollars to Abu's father from London to Jordon. The money was collected from joint prayer during our festive season. The money was sent legally to Jordon to help the poor. I went to the bank and filled out the form with my name and address (what ever information they needed). I have no reason to doubt what these funds were used for. Abu's father visited London a couple of times, and during normal conversation I asked him about the funds. Abu's father was also questioned about the money by Jordon's Intelligence Agency. "I assure you they are more persuasive than you and nothing came out of it." Jordon is a small country and

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these funds were sent to the capital. The Jordanian Intelligence had things under control. "I want to say that I will always be ready to offer my assistance to the poor and needy regardless of their religion and race. I strongly believe that the transfer of funds from the rich to the poor should be encouraged."

"It is very important for you to understand that I did not participate in any illegal activities whatsoever."

[Exhibit R-1, paragraph 3.a.6 (In November 2002, the detainee was arrested in Gambia after arriving from the United Kingdom and was later transferred to U.S. custody in Bagram, Afghanistan.)]

Detainee: I can't see the last point to be an accusation. Is it an accusation?

Tribunal President: It is part of a statement.

Detainee: The evidence has discrepancies. That is not quite how it happened. When my friend [redacted] and I got off the plane in Gambia the Immigration officer took our travel documents and pointed to the side. I had an Iraqi passport. [redacted] had a British travel document. Our British friend came along and the Immigration officer pointed to the side again. I said, "this doesn't look good." He held on to our travel documents, didn't say a word and pointed again to the side. We were taken to an ordinary room in the airport. The kept telling us there wasn't a problem. Then, they said there was a small problem. Towards the end it was still just a small problem. We were taken to the Gambia Intelligence Agency where we were put in ordinary rooms. The very next morning US officials were running the show, taking pictures, and asking questions. However, the word terrorism or al Qaida was never mentioned. They were interested in my brother's peanut processing business that he was establishing in Gambia. I had traveled to Gambia to install his machinery. I planned on staying in Gambia a month to six weeks; before taking a week or two vacation.

The way things happened in Gambia was similar to the way a criminal gang would operate (from what I have seen on television). They did not beat us up on that occasion in Gambia.

The paragraph says I was later transferred to US custody. In Gambia, the Americans were running the show. Some of our things were convincingly taken away from us. My brother had exported some trucks, machinery, tools and plywood. The container with the plywood was searched thoroughly. I personally packed everything in that container. The plywood we exported for my brother's business was used to construct our cells. I later realized the shampoo and food we were given were the supplies we had taken with us to Gambia. The three to four thousand dollars I had on me at the time was also taken. I hope it is in good hands, although, I'm not quite sure. I will probably never see it again.

During our stay we were not given adequate food and the hygiene standards were very interesting. The word arrest or terrorism was never used. Their primary focus of the

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questioning regarded Abu Qatada. [REDACTED]

[REDACTED] I understood they were holding us was because they were suspicious. However, the situation was not handled properly.

President: You mentioned you wanted to speak to the other pieces of evidence, which I believe are copies of newspaper articles the FBI used.

Detainee: There are a few things that are incorrect with regards to our arrest.

Detainee: The document stated four individuals. There was a fifth individual in Gambia who was with my brother. He was a Gambian national and was also released. My brother and his other friend were released and sent back to the United Kingdom. It says initially there was a problem with our Visas. There wasn't any problems with our Visas. In fact, we had obtained multiple entry Visas from the United Kingdom. Regarding subsequent links to terrorist groups: The questioning concerned Abu Qatada. They were interested in the time he spent in hiding. During the questioning they tried to recruit us. "After a brief period of questioning, at the Headquarters of the National Intelligence Agency, the investigation was taken over by US officials." As I have stated before, the US was there and in charge from day one. They were not very respectful to the Gambians. Paragraph four states my brother was released, in December, without being charged and went back to the United Kingdom. The date was correct, but a US official told me my brother didn't want to leave Gambia unless he knew I was okay. The official asked me to write my brother a letter letting him know I was okay. They told me I was going to Afghanistan and my brother was going to Britain. I believe my brother was forced to leave Gambia.

Detainee: Exhibit R-5 is not correct. It says I was handed over to the UK authorities. I don't believe the UK authorities had anything to do with this; I believe they meant the US. Exhibit R-5, paragraph 3: "The interrogation took a new twist when the Gambian authorities, who were acting on behalf of the United States, invited American Intelligence personnel to quiz the al Qaida suspects" This was incorrect. They were there from day one.

Detainee: I would like for you to read the letter from my lawyer.

Tribunal President: Do you know where the letter is?

Detainee: Yes, in my cell.

Tribunal President: We will consider asking for it, if we think it is relevant.

[PR hands President Exhibit D-B (the Detainees personal written statement)]

[Tribunal President: Does that conclude your statement?]

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Detainee: Yes, at this time, it is all I can remember.

Summarized Answers in Response to Questions by the Tribunal Members

Q. I am going to take you back to London. Is Abu Qatada an Aman-e-Sheik of a mosque?

A. Yes. He is like a preacher; he preaches every Friday.

Q. Forgive me for saying this, I am going to use a Christian analogy, his Congregation met in a public forum?

A. Yes

Q. Did he have a name for it?

A. We don't give it a particular name. We call it by the area it is in.

Q. You say that generally. What was this particular one called?

A. Every six months or so there was a reason to move. I have known three of them, but I don't recall their names.

Q. They were in London?

A. They were in London. They were not a secret. [REDACTED]

Q. Did you consider Abu Qatada to have any Islamic authority or any authority to issue a Fatwa?

A. Yes. People would come and ask him all the time. I would translate for him.

Q. Did he ever issue a Fatwa or Jihad against the United States, the United Kingdom, or any of its coalition partners?

A. I don't believe he has. He approves and encourages people to go to Jihad (holy war). He has worse things to say about a country like Jordan or our part of the world, than he does about the West. However, he doesn't say good things about the West either.

Q. I would think he would consider those Apostates?

A. To be honest, they don't have anything good to say about any country.

Q. Given all the suspicions surrounding Abu Qatada, his penchant for Jihad, why did you continue your association with him?

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A. Talking about Jihad, this is something everybody does in London. There isn't a mosque you can go to that doesn't talk about Jihad.

Q. Lets just say Jihad in the violent sense.

A. Not everyone in London talks about Jihad in the violent sense. When someone uses the word Jihad, it doesn't mean it is against the United States. There are many issues in the world; some are just, and some are not. If I stayed away from everyone who preached Jihad, I would have to stay away from everyone who is Islamic in London. Personally, my family and I have suffered greatly since 11 September. I have family and property in the US and we are involved with the stock market. My life is not the same. After 11 September, I listened to preaching and they still talked about Jihad. However, I did not hear anything specific about killing Americans.

After 11 September, I asked Abu Qatada what he thought about it? If you stand back and look at it, it was a problem for everyone. Abu told me, "Bisher, if I was asked about 11 September, shall we do it or not, I would have said no." I also told the interrogators that if people had the same mentality as Abu Qatada, the world would have a lot less problems. I am not saying he is your friend, but he looks at things differently. He taught me to look at the consequences of my actions. I wish I could have gotten my interrogators to understand this.

Q. Knowing what you know now about al Qaida, and the definition of al Qaida, would you consider yourself or Abu Qatada, to be associated with al Qaida?

A. What I have learned about Abu Qatada and the association with al Qaida after 11 September are things associated with the newspaper. The newspapers say he is al Qaida.

Q. Did you ever observe anything in your relationship or interaction with him?

A. After I read the newspapers and was interrogated, I thought maybe he was al Qaida. After the papers and officials in Gambia said he was al Qaida, I tried to defend him. For two years it has been forced in my head that he is al Qaida. I try and go back to the time when I never thought he was al Qaida. The facts haven't changed, just the conversations and forced arguments. In hindsight, I wish I hadn't known him at all.

Q. What was your line of work in the United Kingdom?

A. I am from a wealthy family. I didn't really have a job.

Q. What about education? Tell me about your education?

A. I was a bad student. I went to the University, but I didn't finish. My family gives me money if I need it.

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Q. What line of work does your family do?

A. My family owns quite a bit of property. We own property in the United States, Iraq and Jordan. My mother is Jordanian and my father is Iraqi. Our money is in the stock exchange.

Q. Has any of your family businesses come under suspicion as being associated with al Qaida?

A. Not that I am aware of. My brother went to Gambia to start a peanut processing factory and this is how the whole story started. Many questions have been asked about the way my brother got the money for the factory, which cost him approximately two hundred thousand dollars. He refinanced his flat to pay for his business. This can easily be checked. As far as I am concerned, our financial affairs have never been scrutinized.

Q. When you wired money to Abu Qatada's father, did you know who he was?

A. Yes, he had visited London a few times.

Q. In Gambia, did the Americans identify themselves?

A. No, they lied. One instance, an interrogator asked me what he could do to make people cooperate with him? He asked me if it would help if he were Gambian? I told him I thought it would. He said he had a Gambian passport. After that, he claimed he was Gambian.

Q. Why didn't you tell the Gambians you were a UK citizen?

A. I'm not. I carry an Iraqi passport. I was entitled to get my British citizenship, however, I did not apply for it.

Q. How long have you lived in the UK?

A. Approximately 18 years.

Q. [REDACTED]

A. [REDACTED]

Q. [REDACTED]
[REDACTED]
[REDACTED]

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A. [REDACTED]

Q. [REDACTED]

A. [REDACTED]

Q. [REDACTED]

A. [REDACTED]

Q. [REDACTED]

A. [REDACTED]

Q. [REDACTED]

A. [REDACTED]

Q. As far as the transfer of funds, you said it was one to three thousand dollars.

A. Approximately.

Q. Was that each time?

A. The number of times I transferred funds was probably three or four times. This was over a three to four year period. That is why I saw nothing wrong with it. This is a very legal normal process. This money is going to feed people. I don't consider three to four thousand pounds a lot of money. For the life of me I can't relate it to terrorism.

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Q. Was it pounds or dollars?

A. I am saying dollars because they prefer the currency.

Tribunal President: I understand I just wanted to make sure I was clear in what you were saying.

Detainee: The money would initially be in pounds, we change it into dollars and then we send it. In Jordan it is easier to deal with dollars.

Q. So my understanding in the way they deal with money, you would go to a mosque on a Friday, there would be a collection and then Abu Qatada would give that to you and say 'here give this money to my father in Jordan to distribute to the poor?'

A. They made collections all the time and the money accumulated. The meeting would be in the place of prayer, the mosque we went to. I referred to the money on the particular day I received it. I took it to the bank and exchanged it into dollars. Sometimes I would go to the bank on the same day sometimes a day or two later, depending on how lazy I was. A few days after I sent the money, someone would call the family and ensured they received the money. One time the money took longer than normal and I was sent to the bank to clear the matter up.

Q. This was eighty three times over three to four years and it was three to four thousand dollars each time?

A. Three or four times. It could be a few more times. It was less than eight times.

Q. The trip to Gambia, how did your brother arrive at peanut processing?

A. My brother isn't always sensible. He had been looking to start a business for a long time and had several good ideas, including generating home electricity. Unfortunately, none of his ideas ever materialized. I had discussed with my father, before he passed away, about buying a restaurant for my brother. I still think that is a good idea. One day Omar, the fifth person who was with me when I was arrested, started talking about peanuts. My brother and I have known Omar and his family for approximately fifteen years. Omar knew my family had money, so he would throw business ideas our way. I usually listened when people came to me with ideas on how to make money. Gambia is a country that grows peanuts. Omar started talking about peanut processing. I was looking desperately at something for my brother to get involved in. When the opportunity came for my brother, I was excited. Omar had arranged for my brother to buy the peanut processing machinery in India. Everything was purchased legitimately. Personally, if it were up to me, I would have stayed in Gambia awhile and checked things out before buying the equipment.

The idea was to have a mobile factory. Instead of bringing the peanuts to the factory, we would have gone to the farmer, bought and processed the peanuts, then moved on. The

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remainder of the peanuts would have been sold for animal feed. The idea would have allowed us to be very competitive and we would have saved on transport costs. I believe it was a unique idea and it would have worked. My part in the business would have included setting up the machines on the trailer and ensuring they worked properly.

Q. Did you fly directly from Great Britain to Gambia?

A. Yes.

Q. You mentioned you thought the letter from your lawyer would be helpful. In what way do you think it will be helpful?

A. It will give you a different point of view.

Q. And you have that in your cell?

A. Yes.

Q. When you were questioned by the US authorities in Gambia, was Abu Qatada already in custody at that point?

A. Yes, when I traveled from London, Abu Qatada was already in custody for over a week. When he was arrested in London, his family was with him. When they arrested him, his family needed to go back home. They got in touch with me and my friend [REDACTED] and we came and reassured them everything was okay. The police said, "thank you very much for coming." They asked me my name and I told them. They were very nice.

Q. How long had you been planning your trip to Gambia?

A. I told my brother on many occasions to go to Gambia. I told him the minute he needed me I would buy a ticket and come. He called me and told me I had to come now. I prayed to god. My mom told me don't travel, my sister and brother in law told me don't travel, I didn't want to travel but my brother insisted. I knew I shouldn't go, but I'm went anyway.

Q. Your brother was already down there?

A. No, my brother was in London.

Q. Oh, he was back?

A. We did some shopping. Any money I was going to make from Gambia I was going to give it to Gambia. It was a poor country and I didn't need the money. I wanted to teach welding. We had gone shopping and I had gotten my shots. I took him to the airport and a week later I traveled with two other guys. At the airport in the United Kingdom, we were arrested. They said they had arrested me because of my battery charger. I had

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played around with it and converted it. It was still just a battery charger. I liked recycling things and using rechargeable batteries. I had even bought my friend Abu Qatada a battery charger and batteries.

Q. So, they stopped you for having that?

A. Do you want what they said, or what I believe? They wanted an excuse. The week prior to our arrest, [REDACTED] and I were with Abu Qatada at his hide out. They wanted to talk to us. After they arrested us, they told us we were entitled to a lawyer. I told them, I didn't need a lawyer because I hadn't done anything. They interrogated me for several hours. I was very tired. I missed my flight. I was polite. They asked me about my life, and I answered all their questions. They wanted to ask about Abu Qatada. I told them, "they arrested me because of the battery charger. What did Abu Qatada have to do with that? If they suspect me, what does Abu Qatada have to do with this?" I told them I wouldn't answer any questions about Abu Qatada. I didn't want to answer because I thought it was abuse, they weren't being straightforward. If they wanted to talk to me, they could have just asked instead of making up an excuse about the battery charger. They lied in court. They made excuses. They said they had to bring a specialist from another country to look at the battery charger. The interrogator was very nice. He told me he had asked about Abu Qatada, because he got his instructions from somebody else. I was straightforward with him. I have nothing to hide. In hindsight, I would have asked for a lawyer and not answered their questions.

Q. You were leaving from Gambia, when this happened?

A. The first time.

Q. They held you and you missed the flight?

A. Yes. We missed the flight and they detained us for about three or four days. We were released. Our lawyer told them their place is not here, it is with their factory. I said absolutely.

Q. But you did go to court over that?

A. No.

Q. You said they lied in court?

A. They went to court because the law restricts them for the amount of time they can detain us. I learned from my lawyer they had gone to court and extended us. They gave the excuse they had to bring an expert from another country. I knew what I had and I told them about it. I had another identical battery charger in my suitcase. I converted it. I hadn't converted the electronics in anyway. I just made it waterproof.

Q. How long before you actually went to Gambia did this happen?

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A. We were going to travel on a Friday. We got arrested and were detained for a few days. We got released on Wednesday. The day we got released, we got in touch with the travel agency where we bought our initial tickets. We were told our tickets were void. The airline wouldn't accommodate us for missing our flight. We did receive a partial refund and booked our tickets over the phone. The next day we went and got our things from the police. They had raided our homes and took various items. We were released and not charged with anything. We got an apology and a smile.

Q. They released you and said you are free to go and no charges?

A. No charges.

Q. They cleared your battery charger?

A. Yes, of course. We went through a list and got everything back. Some items were damaged, but that's the nature of things. We got everything they took from us back. From our home and the airport.

Q. So you got everything back and they said you were free to go?

A. On Thursday. Friday we traveled again. Of course then, we were a bit hesitant to travel. My other friend Abdulla didn't want to travel. I didn't want to travel in the first place. But if we didn't go, it would be a disaster for my brother.

Q. On Friday, when you traveled, the airline tickets were purchased using your name Bashir Al Rawi?

A. I'm sorry I don't understand?

Q. Your name was on your ticket?

A. Yes.

Q. You didn't travel under an assumed name?

A. No. Everyone used their real name. The first time we had planned to travel, we paid for extra weight. We had an interesting relationship with the lady at the counter. When we came back the following week she said, "didn't you travel last week?" Everything went smooth the second time. I had asked to speak with an official at the airport. I explained that the previous week we were arrested, and I wanted to make sure there wasn't going to be any problems this time. The police told me they were very busy and didn't have time. I told them they weren't busy last week when I tried to travel. We traveled to Gambia one week after we got arrested. My brother was already there.

Q. When did you buy the tickets for the previous flight you were on?

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A. The same people we bought the second tickets from.

Q. The question was when, not who.

A. Approximately two days before we were to travel.

Q. You made the reservations about the same time?

A. Yes. When we tried to travel the first time, Abu Qatada had already been under arrest for a week or ten days.

Q. Before your first departure?

A. Yes.

Q. So, it was over two weeks before you actually left?

A. Yes.

Q. You were thinking about this trip on and off for months or so, then you made your reservations and bought your ticket the week before?

A. That was only for myself. Abdullah and [REDACTED] had already bought their tickets and had their shots. It was only I who was hesitant to travel.

[Tribunal President to Detainee:]

We did talk earlier about the other witnesses you requested and what I am going to do is still withhold the decision until I read the remainder of the evidence and if I think those witnesses or the letters (in particular from the lawyers) will have a bearing upon our decision at that time I will make a decision on those. At this time, I don't feel I have enough information to make a decision positive decision either way on the relevance of those witnesses. I will withhold that until I see the remainder of the evidence.

Tribunal member: The letter, as well?

President: And the same for the letter. If we decide after we see the rest of the evidence if it will be worthwhile, we will secure them at that time.

The Tribunal President asked the Detainee if he had any other evidence to present to this Tribunal. The Detainee stated, "I don't think so."

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

A. No.

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[Tribunal Reconvened to examine additional evidence and to discuss witness request.]

Tribunal President: Detainee has requested three witnesses [REDACTED]. The witnesses are no longer considered reasonably available, so I am going to deny the request for those three witnesses. However, Detainee requested he be allowed to submit two letters from his lawyer that contains information relevant to this case. That request was approved and I believe the Detainee's Personal Representative has those letters.

Personal Representative: [Presents Exhibits D-C through D-H to the Tribunal.] I would like to note for the Record, there are some redactions made by the Detainee.

Detainee: The black out marks on the documents were done by the Guantanamo facility, I did not make them.

Tribunal President: We didn't know where they came from. So noted.

Personal Representative: The following redactions were made on the documents: Exhibit G, paragraph 52, 54 and 70; Exhibit H, page 30 paragraph 17 and 19; Exhibit H, page 31, paragraph 19, 21, and 22; Exhibit H, page 32 paragraph 24; Exhibit H, page 14, paragraph 46.

[When asked by the Tribunal President if he wanted to make a statement, the detainee stated yes and provided his statement after electing to be sworn. The detainee testified essentially as follows]:

Detainee: First I would like to thank the Tribunal for providing me a second opportunity. After I returned to my cell, I thought of a million things I wanted to say. I didn't figure I would get a second opportunity, but I was glad when on Saturday my Personal Representative informed me I would have another opportunity. Unfortunately, that day my lawyer met with me for a second time and used a lot of my time. Sunday I was moved from Camp Echo to my present cell, and I lost a lot of time to prepare for today. Today, I met with my Personal Representative and he told me the Tribunal would be this afternoon. I hurried and wrote some things. I have only ten pages. I wanted to write more, but didn't have the time.

[REDACTED]

I hope I can convince you I am telling the truth. I will try and limit the times I use the word important, but please realize the emphasis is there. Most of my charges are based on my friend Abu Qatada. Abu Qatada is a Jordanian citizen of Palestinian origin, from the country now known as Israel. While in Jordan, he studied Islam and became a

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preacher. He had strong views and a lot to say about the Gulf War. I believe everyone in this Tribunal room has had some involvement with that war. Several people supported Saddam Hussein despite what was known about him. (I don't like or support Saddam Hussein). People of Jordan were among those who supported Saddam. Abu Qatada told the truth about Saddam Hussein (Saddam wasn't a savior but a murderer). People turned against Abu Qatada and wanted to hurt him. Accusations were made that he was CIA or he was this and that. He left Jordan and went to Pakistan where he received his Masters Degree in Islamic studies. His views were also scrutinized in Pakistan. He taught at a University in Pakistan for about two years.

I hope this Tribunal doesn't reject the truth. Abu Qatada left Pakistan for the United Kingdom with his wife and three children. He was granted political asylum by the British government and was provided a home, money, and free medical care. I guess you can say, he was harbored and protected by the British government. I am referring here to the charge that has been made against me [The Detainee provided harbor in London, United Kingdom to a known al Qaida fugitive named Abu Qatada.]

Abu Qatada arrived in the United Kingdom in 1993. His views and opinions were the same before he arrived in Britain as they are now. He took the opportunity, to utilize the freedom Britain offered and its diverse population, to voice his views. He believed it was vital for the rich to help the poor.

Abu Qatada was arrested in October 2002, approximately nine years after he had arrived in Britain. During those nine years, he preached about Jihad and hundreds of other topics.

[REDACTED]

I feel it is important for this Tribunal to understand the situation and the Law in Britain that allows the British authorities to arrest anyone they believe to be a threat. I mention this because of the accusations that Abu Qatada was arrested because he was a threat. After 11 September, the British government rushed through Parliament a Bill that created the Law allowing authorities to detain indefinitely any alien who the authorities feel pose a threat.

I request the Tribunal obtain clarification of the above law. I am unable to provide the information because I don't have access to it, but I am willing to assist the Tribunal in anyway I can. A handful of people were arrested under this law, including Abu Qatada. If Abu Qatada was a British citizen, none of this would not of happened and charges would not have been brought against me. If [REDACTED] (ISN [REDACTED]) and I were British citizens, none of this would have happened. This law was challenged in Britain and the European court ruled the law discriminated against foreigners.

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After my last Tribunal, I was taken to Camp Echo. In Camp Echo, I was isolated from all Detainees. I was provided with some paperwork, which I have included as exhibits. Among the information was a letter from my lawyer. In the letter, my lawyer strongly recommended I didn't participate in the Tribunal or talk to my Personal Representative. I find it coincidental the letter reached me two days after my Tribunal when it is dated 1 September.

Tribunal President: In regards to the letter, you have my word I had no idea that letter existed.

Detainee: I believe that.

Tribunal President: I can't speak for anyone else, but the three members of this Tribunal had no idea the letter existed.

Detainee: I am glad I appeared before the Tribunal. It may have been to my disadvantage if I had received the letter and taken my lawyers advice and not have participated. This letter went to the process that was 'Reviewed by the Privilege Team Member and forwarded', meaning they went through it thoroughly. My lawyer is going to have fun with this in court and with the media.

Tribunal member to Detainee: You realize, now that you have seen the letter, even though you talked to us before, you don't have to talk to us now.

Detainee: I fully understand. I told my lawyer I believe it is to my advantage to submit my further evidence. My lawyer gave me very little advice, he just said what I told you before was good.

Tribunal President: I know we told you; you may not be compelled to testify.

Detainee: I fully understand.

Tribunal President: You testified under Oath.

Detainee: I accept full responsibility for everything I have said here. I have no problems with the information I have told you.

Tribunal member: You did tell your lawyer you spoke to us last time?

Detainee: Yes.

Tribunal member: And that you were going to speak to us again?

Detainee: Yes.

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[Detainee continued statement]

My lawyer, whose information is available, is leading the way in the fight against this law. She can provide information on what is happening in the United Kingdom. She is also Abu Qatada's lawyer.

According to my other lawyer (who is also [REDACTED] lawyer) Mr. Mickham, Abu Qatada has not been charged. (I am charged for things Abu Qatada had done, yet he has not been charged.) Abu Qatada is in Britain, under arrest, but hasn't been charged with anything.

Abu Qatada has not been charged or interrogated. I have been interrogated at least sixty to seventy times. Abu Qatada has not appeared in or been convicted by any court. [REDACTED] and I are still here held by accusations revolving around Abu Qatada.

Over the years, Abu Qatada received threats; his home and car were vandalized. Because of these threats, the British authorities offered to provide him protection. He declined the offer; he didn't want to be under continuous surveillance.

I would like to explain more about my relationship with Abu Qatada. I didn't see him everyday. Excluding the time I was helping him find an apartment, I saw him once a week or once every two weeks. On some occasions, a month would pass before I would see him. (I talked about the reasons I would see him at my last Tribunal). It is well known I had similar relationships with other scholars and preachers in London. I use to accompany one such individual to Hyde Park where he voiced his opinions against Iran. This person happened to be Iranian. I hated going to Hyde Park. Pro Iranians would swear and threaten us. It was a heck of a time. I hope in the next few months Iran doesn't become an ally with the United States, because you will see me again with new charges related to that relationship.

I have several friends, not all of which are fundamentalists. I have several non-Muslim friends. (I have not influenced any of the information I have submitted to this Tribunal except for the information I have written myself.) I am here because of my fundamentalist friends and Abu Qatada. I want you to understand I have a separate life from that. I have many friends and enjoy sports and other activities. I have biker friends also.

I would like to talk about the word Jihad (this is based on a question I was asked at the last Tribunal). Jihad is not an illegal word. The word is used in many places; including the United States. The people talking about Jihad are not being arrested or brought to GTMO.

When Jihad is mentioned about Saddam or Iran, it is good. When Jihad went against India to liberate Kashmir (whose people wanted independence from India) Britain supported the people of Kashmir until the eleventh of September. There was a Jihad in Chechnya, because the Chechens wanted their Independence from Russia. The communist took Chechnya over by force. Both of these conflicts were associated with

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the word terrorism, fundamentalism, and (inaudible). The problems in those two places were brushed to the side.

Britain has many groups including Neo Nazis whose activities are worth noting. Some of these groups are evil. For instance, the IRA has used violence and bombing attacks against Britain. If Abu Qatada was such a threat to Britain, why wasn't there a single terrorist incident related to his group or any other Muslim group? [REDACTED]

[REDACTED] Nothing had happened up to the day I left Britain.

I am participating in this Tribunal in an effort to clear my name. My lawyer assured me regardless of the outcome of this Tribunal I would be released. When I am released, I want to be classified as a non-enemy combatant, not as an enemy combatant.

I have been presenting my charges from different angles to try and prove my innocence. After thinking about it for a long time, all I can do is talk. If I could bring you information I would, unfortunately, I don't have the access. [REDACTED]

My lawyer is suing the President of the United States. I submitted my court papers and other related documents here today. I hope the information contained in my files will benefit me. I didn't submit everything only what I felt was relevant to this Tribunal. My case also involves two other individuals. I didn't include my friend's information. You may examine it, if you chose.

[REDACTED]
[REDACTED] In Gambia, I was not in touch with my brother. After a few days we were separated and the interrogations started. As my brother left Gambia, I got a glimpse of him through a small peephole. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Tribunal member: [REDACTED]

Detainee: [REDACTED]
[REDACTED]

[REDACTED] Two Americans and two Gambians conducted the interrogations. [REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED] I am a free man. After a few days they put us in cells that were made from our own plywood. One evening I heard [REDACTED] shouting and banging against the cell. This made me very uncomfortable; I didn't know what to do. I was afraid if I told [REDACTED] to calm down, he would do the opposite. I didn't want to get involved; I was very stressed. They talked to [REDACTED] through an interpreter and then they took him somewhere and then things quieted down. After a couple of minutes, someone had knocked on my door: I was asked if I was okay. The two Americans came into my cell [REDACTED]

[REDACTED] From that point on, we talked about things.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] You can read this in my file and in the unclassified evidence in this Tribunal. It is a big mess. For this to happen, the Americans must have put a lot of illegal pressure on people. The evidence the Tribunal has should indicate this.

My interrogations will reveal that my story hasn't change. If I were lying, I wouldn't remember what I told you and my story would change. [REDACTED]

[REDACTED] I mentioned a few places; I told him he could buy me a ticket to the moon. He told me after my release there was no guarantee I could return to London.

[REDACTED] [REDACTED] was asked where he would like to go after his release and he also mentioned the moon. I believe these conversations were recorded and there should be a record somewhere. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Tribunal President to Detainee: [REDACTED]

[REDACTED] That means I only have your word what happened. Also, you said there was a big missed opportunity, would you explain what that is.

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Detainee: After 11 September, there was a lot of tension. I was a person people listened to. My aim was to form a group with respected people from society. My goal was to reduce tension and resolve world problems. I told myself if I could achieve this, it would be a worthwhile accomplishment. I am not someone who tries to make people do things they don't want to do. I am not saying I achieved anything.

Tribunal President to Detainee: I am still trying to understand the missed opportunity. The missed opportunity was getting people together to talk?

Detainee: Yes. Resolve tensions and prevent situations from escalating.

Detainee continued: [REDACTED]

[Detainee asked if someone was behind the window? The Tribunal President explained to the Detainee that someone was observing the Tribunal. The Detainee asked if the Tribunal was being monitored. The Tribunal President stated that it was not being monitored, just observed by someone who wanted to watch the process.]

Detainee continued: [REDACTED] I don't understand why I am shackled in here?

Tribunal President to Detainee: Your Personal Representative did ask if you could have your hands free. You are classified as an enemy combatant against the United States until we make a determination otherwise. I treat all enemy combatants fairly but the same. I won't allow anyone in here without the shackles. I am treating you like I treat everyone else. That was the decision I made. Not everyone is as nice as you, when we talk. For the safety of all, I treat everyone the same. I would not make an exception, even in your case.

Detainee continued: [REDACTED] gs

Tribunal President: [REDACTED]

Detainee: There is a strong trust between my friend [REDACTED] and I. In London, I would assure him it was okay to help me. [REDACTED]

[REDACTED]

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[REDACTED]

The British government told me they couldn't help me, because I am not British. I just want to reiterate I am not lying to you, what I have told you are the facts. I hope if you have any doubts, you can check them out. If I had lied then I am an enemy combatant. But if I have told the truth, please take that into consideration.

As you know, we were taken from Gambia to Kabul and then to Bagram Airbase. In Bagram, I provided information only after I was subjected to sleep deprivation, and various threats were made against me. I would like to state for the record, documents and letters from my lawyer, including those introduced today, were deliberately withheld from me until after the Tribunal, which was rushed.

[Detainee requested a copy of the unclassified summary (Exhibit R-1), so he could refer to it during his statement.]

[With regards to paragraph 3.a.3, (Abu Qatada has strong links to senior al Qaida operatives and facilitated the travel of individuals to an al Qaida guesthouse in Pakistan.)]

Detainee: If anyone planned to travel to Pakistan, I don't believe they would have told me about it. The people in GTMO are from many different countries. I can't believe Abu Qatada is an inspiration for all of them. Only a handful of people from the United Kingdom were brought to GTMO. Most of the people did not live in London. Abu Qatada is from London and he rarely left the city. No one is here because of Abu Qatada. There are people in GTMO that left the West, before 11 September, with their families for a new life in Afghanistan or Pakistan. I don't fully understand why they did it, and I am not convinced it was the right thing for them to do.

For the record I overheard someone, from my cellblock, say that he had moved his family from Britain before 11 September. I had learned he had prayed a few times with Abu Qatada. I don't believe there is anyway he would have left with his family, if he knew what was going to happen. If you want to fight Americans, you don't take your wife and children with you.

[REDACTED]

I had asked Abu Qatada his thoughts. He told me what had happened on 11 September was bad for the Islamic community because it would create problems and further alienate us. He concern was not because he liked the United States, but because of the reality of the world we live in, and what is good for him and his community. Abu Qatada always took responsibility for his actions. These are the qualities that I admired about Abu Qatada. I have not seen those qualities in anyone else.

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The next point is regarding the transfer of funds. The money was sent from London to Jordan. My mother is Jordanian and her mother lives there. My mother spends half of the year in Jordan taking care of her mother and the other time in London with me. If something suspicious happened I would think Intelligence would have questioned them about it. Nothing indicated to me, the transfer of the money was illegal, suspicious, or the threat to any country. The money was sent between two countries. The Jordanian authorities never questioned my mother about this and when I was arrested at Gatwick airport, no one questioned me about the money. I was interrogated for about eight hours, during which time I opted not to have a lawyer present since I had nothing to hide. Yet, after two years this allegation is brought up in the Tribunal. I sincerely hope what I am saying is clear. There is nothing to this allegation. I wonder, is the reason I am here because of these charges? Or, are these the things they decided to charge me with after they questioned me? This is the information I provided to them. Was this a formulated excuse after two years?

To collect the money after prayer, someone would shake (it encourages people to donate) the bucket. On occasion, when I was asked to collect the money, I enjoyed it. The money helped pay for the use of the hall, photocopies, parties, and presents for children. Our expenses were the same as any other community. Approximately four years ago a Jordanian traveled from Jordan to London for cancer treatment. An acquaintance of mine gave this individual my phone number. I was asked if I could help him, and I did all that I could. I would take him to his appointments and pay for his expenses out of my own pocket. I mentioned this individual's situation to Abu Qatada, and he arranged through his charity to pay the hospital expenses (about \$40,000.00). The expenses were a little more than what the charity covered and Abu Qatada made up the difference. This was the Abu Qatada I knew. [REDACTED]

I offered to help those I have known and those I don't. If I noticed someone stranded on the highway, I would stop and offer my assistance. Two days before my trip to Gambia, I helped my elderly neighbors trim some trees on their property.

The papers I introduced to the Tribunal talked about my brother's business in Gambia. My brother spoke to the authorities in Gambia and registered his company. Everything he did was legal; he had the proper documentation. If the Tribunal has any questions about my brother's business, especially regarding the finances, I am certain my family can provide that information.

If we had intended to do harm in Gambia, then it was unwise for the Gambian authorities to let two members (Omar and my brother) of the group go. If the idea was raised we went there to do harm, then why didn't they detain us and take us to court in Gambia?

I have never heard Abu Qatada encourage anyone to go to Pakistan or Afghanistan. His opinion at the time was that the Jihad between the Taliban and the Northern Alliance was between two Afghani groups, why should Arabs get involved? In terms of a religious explanation, when war is between two Muslim fascists it is not obligatory for a third

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party to get involved. Others and I had hoped something good would have resulted from Afghanistan and the government. We somehow knew the situation was a failed venture.

I mentioned the word harbor to my lawyer. I truly don't believe I harbored Abu Qatada. If Abu Qatada had ties to al Qaida, I was unaware of it.

I would like to raise some questions. I don't think these questions will help my case but I hope things will be looked at in a better way. What groups of people have the right of freedom over others? What are the principles we should have in deciding these matters? Russia, after the fall of the Soviet Union, gave several states their independence. Georgia was among them. Chechnya, which is next to Georgia, didn't get its independence from Russia. They fought for it and people died, yet they didn't get their independence. I wonder why? There were many promises made. Why is it we can say this war is legitimate, and this war isn't? I wonder how many faces in today's Russian politics are the same faces we saw from the time of the Soviet Union? These people were evil because of the things they did. However, once the Soviet Union collapsed, Putin whose job was head of the Secret Service became their President. He is the one who is respected and whose opinion counts. What has changed these individuals? Maybe it was a miraculous transformation? Maybe they have become Saints, or maybe they are the same people as before? Why is it when an Island like East Seymour wanted its independence, they received it in a year? Thousands of people were butchered, yet Putin turned a blind eye to it. Why didn't the Palestinians want dignity in the land of their fathers and ancestors where they were fired upon and killed? To be fair, they did cast the first stones. Why is it some people get freedom and others don't? Why is it when some people want to fight for their freedom, they are labeled as terrorists? Why is it America fought for its freedom? Why is it America tells some people they cannot fight for their freedom? America paid a very high price for its freedom. Freedom is the highest thing one can achieve in this world.

Again for the record, things I have said here are relevant to the case of my friend [REDACTED]. One of the accusations against him was that he took Abu Qatada's family to Abu Qatada. [REDACTED] did that because I had asked him to. I assured him it was okay based on what I thought I knew at the time.

Another of his accusations regarded a battery charger. This was the battery charger that I mentioned the last time we met. The battery charger belonged to me. I modified it, and I take full responsibility for it.

I hope and pray what I have told you will help clear Jamil and me. Thank you very much.

Tribunal President to Detainee: I would like to address your two new witness requests: one is that we get a statement from your lawyer concerning laws by which Abu Qatada was arrested. That is not relevant to this Tribunal, so that is denied. The second request was to get statements from the officials in Gambia. We are not going to do that for this Tribunal.

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Detainee: With regards to the statement "Abu Qatada is a known al Qaida operative who was arrested in the United Kingdom and is a danger to national security." I feel it is important to the Tribunal to understand why he was arrested. I feel it is extremely important you have an understanding regarding his arrest.

Tribunal President: I won't ask for that information from your lawyer, I have asked for that information through other channels. I was curious about that and I do believe we have some additional information. That was requested and I should have told you that. I understand your concerns.

Detainee: That is fine, thank you.


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

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DETAINEE ELECTION FORM

Date: 24 SEP 04

Start Time: 0800

End Time: 1020

ISN#: [REDACTED]

Personal Representative: [REDACTED] LCDR, USN
(Name/Rank)

Translator Required? NO Language? ENGLISH

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 has requested 5 witnesses.

#1. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

#2. Detainee # [REDACTED] located in Cell Kilo-12. He can testify not arrested in Gambia, they were specifically told not arrested. From day 1 to last day in Gambia they were not given any legal status. American officials were running the show and interrogating them.

#3. [REDACTED] is his brother and can be located at [REDACTED] UK. He can testify that they were not arrested because he was with them and let go. He will testify to the same as above detainee# [REDACTED]

#4 Abdula Janudi who was also released, can be contacted through his brother and can testify/collaborate on the above statements of the other witnesses, because they were all together.

#5. Gareth Peirce, detainees lawyer representing him. Will testify that what he is being accused of in Summary of evidence is not illegal in Britian.

Exhibit DA-1

[REDACTED] LCDR, USN

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (21 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL RAWI, Bisher Amin Khalil.

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 associated with al Qaida.

a. The detainee is associated with al Qaida:

1. The detainee provided harbor in London, United Kingdom to a known al Qaida fugitive named Abu Qatada.
2. The detainee assisted Abu Qatada by locating an apartment where Abu Qatada hid from British authorities.
3. Abu Qatada has strong links to senior al Qaida operatives and facilitated the travel of individuals to an al Qaida guesthouse located in Pakistan.
4. Abu Qatada is a known al Qaida operative who was arrested in the United Kingdom as a danger to national security.
5. In addition to helping Abu Qatada evade British authorities, the detainee transferred funds between branches of the Arab Bank at Abu Qatada's direction in 1999 or 2000.
6. In November 2002, the detainee was arrested in Gambia after arriving from the United Kingdom and was later transferred to U.S. custody in Bagram, Afghanistan.

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Exhibit RI 4148

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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.

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Memorandum



To : Department of Defense Date 09/20/2004
Office of Administrative Review
for Detained Enemy Combatants
Col. David Taylor, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
[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 [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 02/09/2003
FD-302 dated 02/25/2003

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

²See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/20/2004

If you need additional assistance, please contact
Assistant General Counsel [REDACTED]

or Intelligence Analyst [REDACTED]

Intelligence Analyst [REDACTED]

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AUG 1 2004



Fact Sheet
 Office of the Coordinator for Counterterrorism
 Washington, DC
 December 20, 2002

Executive Order 13224

(NOTE: For current, regularly up-dated list of terrorists and groups designated under Executive Order 13224, please scroll down)

President Bush signed Executive Order 13224 on September 23, 2001. Executive Order 13224 gives the U.S. government a powerful tool to impede terrorist funding and is part of our national commitment to lead the international effort to bring a halt to the evil of terrorist activity. President Bush issued Executive Order 13224 pursuant to the authorities of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c)(UNPA), and section 301 of title 3, United States Code. In issuing Executive Order 13224, President Bush declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York and Pennsylvania, and on the Pentagon committed on September 11, 2001, and the continuing and immediate threat of further attacks on U.S. nationals or the United States.

In general terms, the Order provides a means by which to disrupt the financial support network for terrorists and terrorist organizations by authorizing the U.S. government to designate and block the assets of foreign individuals and entities that commit, or pose a significant risk of committing, acts of terrorism. In addition, because of the pervasiveness and expansiveness of the financial foundations of foreign terrorists, the Order authorizes the U.S. government to block the assets of individuals and entities that provide support, services, or assistance to, or otherwise associate with, terrorists and terrorist organizations designated under the Order, as well as their subsidiaries, front organizations, agents, and associates.

Designation Criteria

In addition to the 29 individuals and entities designated by the President and listed in the Annex to the Executive Order, as amended by Executive Order 13268 of July 2, 2002, the Order provides authority for the designation (and blocking of assets) of additional individuals or entities (defined to mean partnerships, associations, corporations, or other organizations, groups, or subgroups):

- The Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, may designate foreign individuals or entities that he determines have committed, or pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the U.S.;
- The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, may designate individuals or entities that are determined:
- To be owned or controlled by, or act for or on behalf of an individual or entity listed in the Annex to the Order or by or for persons determined to be subject to subsection 1(b), 1(c), or

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Exhibit R3

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1(d)(i) of this Order;

- To assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, acts of terrorism or individuals or entities designated in or under the Order; or
- To be otherwise associated with certain individuals or entities designated in or under the Order.

For the purpose of the Order, "terrorism" is defined to be an activity that (1) involves a violent act or an act dangerous to human life, property, or infrastructure; and (2) appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

Designation Process

The Executive Order authorizes both the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, or the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to designate individuals and entities pursuant to the specified criteria described above.

Once the Secretary of State or the Secretary of the Treasury designates an individual or entity, the Office of Foreign Assets Control (OFAC) of the Department of the Treasury takes appropriate action to block the assets of the individual or entity in the United States or in the possession or control of U.S. persons, including notification of the blocking order to U.S. financial institutions, directing them to block the assets of the designated individual or entity. Notice of the designation is also published in the *Federal Register*. OFAC also adds the individual or entity to its list of Specially Designated Nationals, by identifying such individuals or entities as Specially Designated Global Terrorists (SDGTs), and posts a notice of this addition on the OFAC website. Designations remain in effect until the designation is revoked or the Executive Order lapses or is terminated in accordance with U.S. law.

Effects of Designation

Legal Consequences

1. With limited exceptions set forth in the Order, or as authorized by OFAC, all property and interests in property of designated individuals or entities that are in the United States or that come within the United States, or that come within the possession or control of U.S. persons are blocked.
2. With limited exceptions set forth in the Order, or as authorized by OFAC, any transaction or dealing by U.S. persons or within the United States in property or interests in property blocked pursuant to the Order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of individuals or entities designated under the Order.
3. Any transaction by any U.S. person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions in the Order is prohibited. Any conspiracy formed to violate any of the prohibitions is also prohibited.
4. Civil and criminal penalties may be assessed for violations.

Other Effects

1. Deters donations or contributions to designated individuals or entities.

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2. Heightens public awareness and knowledge of individuals or entities linked to terrorism.
3. Alerts other governments to U.S. concerns about individuals or entities aiding terrorism, and promotes due diligence by such governments and private sector entities operating within their territories to avoid associations with terrorists.
4. Disrupts terrorist networks, thereby cutting off access to financial and other resources from sympathizers.
5. Encourages designated entities to get out of the terrorism business.

Current List of Terrorists and Groups Identified Under E.O. 13224

For a current list, updated regularly, of terrorists and groups identified under E.O. 13224, see www.ustreas.gov/offices/enforcement/ofac/sanctions/terrorism.html.

Executive Order 13224

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein, and UNSCR 1363 of July 30, 2001, establishing a mechanism to monitor the implementation of UNSCR 1333,

I, GEORGE W. BUSH, President of the United States of America, find that grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, Pennsylvania, and the Pentagon committed on September 11, 2001, acts recognized and condemned in UNSCR 1368 of September 12, 2001, and UNSCR 1269 of October 19, 1999, and the continuing and immediate threat of further attacks on United States nationals or the United States constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and in furtherance of my proclamation of September 14, 2001, Declaration of National Emergency by Reason of Certain Terrorist Attacks, hereby declare a national emergency to deal with that threat. I also find that because of the pervasiveness and expansiveness of the financial foundation of foreign terrorists, financial sanctions may be appropriate for those foreign persons that support or otherwise associate with these foreign terrorists. I also find that a need exists for further consultation and cooperation with, and sharing of information by, United States and foreign financial institutions as an additional tool to enable the United States to combat the financing of terrorism.

I hereby order:

Section 1. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons that are in the United States or that hereafter come within the United States, or that hereafter come within the possession or control of United States persons are blocked:

(a) foreign persons listed in the Annex to this order;

(b) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States;

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(c) persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order;

(d) except as provided in section 5 of this order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General;

(i) to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to this order or determined to be subject to this order; or

(ii) to be otherwise associated with those persons listed in the Annex to this order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of this order.

Sec. 2. Except to the extent required by section 203(b) of IEEPA (50 U.S.C. 1702(b)), or provided in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property blocked pursuant to this order is prohibited, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the Annex to this order or determined to be subject to this order;

(b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order is prohibited; and

(c) any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, corporation, or other organization, group, or subgroup;

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States; and

(d) the term "terrorism" means an activity that --

(i) involves a violent act or an act dangerous to human life, property, or infrastructure; and

(ii) appears to be intended --

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

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Sec. 4. I hereby determine that the making of donations of the type specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by United States persons to persons determined to be subject to this order would seriously impair my ability to deal with the national emergency declared in this order, and would endanger Armed Forces of the United States that are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances, and hereby prohibit such donations as provided by section 1 of this order. Furthermore, I hereby determine that the Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX, Public Law 106-387) shall not affect the imposition or the continuation of the imposition of any unilateral agricultural sanction or unilateral medical sanction on any person determined to be subject to this order because imminent involvement of the Armed Forces of the United States in hostilities is clearly indicated by the circumstances.

Sec. 5. With respect to those persons designated pursuant to subsection 1(d) of this order, the Secretary of the Treasury, in the exercise of his discretion and in consultation with the Secretary of State and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under IEEPA and UNPA if the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.

Sec. 6. The Secretary of State, the Secretary of the Treasury, and other appropriate agencies shall make all relevant efforts to cooperate and coordinate with other countries, including through technical assistance, as well as bilateral and multilateral agreements and arrangements, to achieve the objectives of this order, including the prevention and suppression of acts of terrorism, the denial of financing and financial services to terrorists and terrorist organizations, and the sharing of intelligence about funding activities in support of terrorism.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 8. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under 31 C.F.R. chapter V, except as expressly terminated, modified, or suspended by or pursuant to this order.

Sec. 9. Nothing contained in this order is intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees or any other person.

Sec. 10. For those persons listed in the Annex to this order or determined to be subject to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to this order.

Sec. 11. (a) This order is effective at 12:01 a.m. eastern daylight time on September 24, 2001.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

GEORGE W. BUSH
THE WHITE HOUSE,
September 23, 2001.

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ANNEX

Al Qaida/Islamic Army
Abu Sayyaf Group
Armed Islamic Group (GIA)
Harakat ul-Mujahidin (HUM)
Al-Jihad (Egyptian Islamic Jihad)
Islamic Movement of Uzbekistan (IMU)
Asbat al-Ansar
Salafist Group for Call and Combat (GSFC)
Libyan Islamic Fighting Group
Al-Itihaad al-Islamiya (AIAI)
Islamic Army of Aden
Usama bin Laden
Muhammad Atif (aka, Subhi Abu Sitta, Abu Hafs Al Masri)
Sayf al-Adl
Shaykh Sa'Id (aka, Mustafa Muhammad Ahmad)
Abu Hafs the Mauritanian (aka, Mahfouz Ould al-Walid, Khalid Al-Shanqiti)
Ibn Al-Shaykh al-Libi
Abu Zubaydah (aka, Zayn al-Abidin Muhammad Husayn, Tariq)
Abd al-Hadi al-Iraqi (aka, Abu Abdallah)
Ayman al-Zawahiri
Thirwat Salah Shihata
Tariq Anwar al-Sayyid Ahmad (aka, Fathi, Amr al-Fatih)
Muhammad Salah (aka, Nasr Fahmi Nasr Hasanayn)
Makhtab Al-Khidamat/Al Kifah
Wafa Humanitarian Organization
Al Rashid Trust
Mamoun Darkazanli Import-Export Company

[End]

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PREC: P DTG: 271521ZDEC02
FROM: FBIS RESTON VA
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WARNING: TOPIC: INTERNATIONAL POLITICAL, TERRORISM

SERIAL: AFP20021227000148

COUNTRY: GAMBIA, IRAQ, JORDAN, UNITED STATES

SUBJ: GAMBIAN INTELLIGENCE AGENCY ARRESTS AL-QA'IDAH SUSPECTS IN NOVEMBER

SOURCE: (INTERNET) GAMBIANET WWW-TEXT IN ENGLISH 23 DEC 02

TEXT:

[FBIS TRANSCRIBED TEXT] FOUR ARABS OF MIDDLE EASTERN ORIGIN SUSPECTED OF CLOSE LINKS WITH OSAMA BIN LADIN'S AL QAEDA NETWORK WERE ARRESTED LAST MONTH AND HELD INCOMMUNICADO BY THE NATIONAL INTELLIGENCE AGENCY.

BISHER AL-RAWI AN IRAQI NATIONAL AND [REDACTED] A JORDANIAN AND ANOTHER MAN DESCRIBED AS A BUSINESS ASSOCIATE WERE ARRESTED ON ARRIVAL AT THE BANJUL INTERNATIONAL AIRPORT ON NOVEMBER 8 AND SPENT ALMOST A MONTH IN INCOMMUNICADO DETENTION. A FOURTH MAN, BISHER AL-RAWI'S BROTHER, [REDACTED] WHO HAD ARRIVED IN THE GAMBIA SOME DAYS EARLIER, AND WHO HAD GONE TO THE AIRPORT TO MEET THEM, WAS ALSO ARRESTED. THEY WERE REPORTEDLY INITIALLY TOLD THAT THERE WAS A PROBLEM WITH THEIR VISA APPLICATIONS BUT WERE SUBSEQUENTLY QUESTIONED ON THEIR ALLEGED LINKS TO 'TERRORIST GROUPS'. THE FOUR MEN, RELEASED ON DECEMBER 5 AND BASED IN THE UK, HAD REPORTEDLY TRAVELLED TO THE GAMBIA IN CONNECTION WITH A PEANUT PROCESSING COMPANY SET UP BY [REDACTED]

AFTER AN INITIALLY BRIEF PERIOD OF QUESTIONING AT THE HEADQUARTERS OF THE NATIONAL INTELLIGENCE AGENCY ON THE PURPOSE OF THEIR VISIT, QUESTIONING WAS THEN ALLEGEDLY TAKEN OVER BY US INVESTIGATORS WHOSE PRESENCE HERE WAS UNTIL RECENTLY UNKNOWN. THE MEN WERE REPORTED TO HAVE BEEN HELD IN SEVERAL HOUSES INCLUDING THE TALLINDING RESIDENCE OF FORMER NIA BOSS KEBBA CEESAY. AT LEAST ONE OF THEM WAS REPORTEDLY THREATENED BY US INVESTIGATORS WHILE ANOTHER OF THE SUSPECTS MAY HAVE BEEN INJURED DURING HIS DETENTION.

[REDACTED] AND THE THIRD BUSINESS ASSOCIATE, BOTH OF WHOM HAVE ACQUIRED BRITISH NATIONALITY, WERE RELEASED WITHOUT CHARGE ON OR AROUND 5 DECEMBER AND HAVE SINCE LEFT THE GAMBIA.

BEFORE THE ARABS LEFT FOR THE UNITED KINGDOM TWO WEEKS AGO, AMNESTY INTERNATIONAL HAD APPEALED TO THE GAMBIA GOVERNMENT, SAYING THEY WERE SERIOUSLY CONCERNED FOR THE SAFETY OF BISHER AL-RAWI AND [REDACTED]. [REDACTED] IS BELIEVED TO BE A DIABETIC AND SO AMNESTY INTERNATIONAL WERE CONCERNED THAT HE MAY HAVE NOT HAVE HAD ACCESS TO MEDICATION OR A DOCTOR AS REQUIRED.

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IN A DECEMBER 11 WRITTEN APPEAL (AI INDEX: AFR 27/006/2002) (JA 359/02) TO PRESIDENT JAMMEH AND COPIED TO US AMBASSADOR, JACKSON MCDONALD, NIA'S DIRECTOR GENERAL, ABDOULIE KUJABI, FOREIGN AFFAIRS MINISTER, BABOUARR BLAISE JAGNE, ATTORNEY GENERAL, JOSEPH JOOF AND OTHER DIPLOMATIC REPRESENTATIVES, AMNESTY INTERNATIONAL APPEALED TO THE GAMBIA LEADER TO GUARANTEE THAT THE FOUR MEN WERE PROTECTED FROM ALL FORMS OF ILL-TREATMENT AND INTIMIDATION BY BOTH GAMBIA AND US INVESTIGATORS, AND THAT ANY ALLEGATIONS OF ILL-TREATMENT AND INTIMIDATION BE FAIRLY INVESTIGATED;

AMNESTY INTERNATIONAL HAD ALSO REQUESTED FOR CLARIFICATION OVER THE REASONS BEHIND THE ARREST AND PROLONGED DETENTION. THEY HAD ALSO DEMANDED THAT SHOULD THE DETENTION OF THE FOUR BE PROLONGED, THE AL-QAEDA SUSPECTS SHOULD BE GIVEN IMMEDIATE ACCESS TO MEDICAL CARE, LEGAL COUNSEL AND HUMAN RIGHTS GROUPS. THE HUMAN RIGHTS CONCERN, WHICH HAS A CHAPTER IN THE GAMBIA ALSO DEMANDED THAT THE FOUR BE RELEASED IF THEY HAD NOT BEEN PROMPTLY CHARGED WITH A RECOGNIZABLY CRIMINAL OFFENCE FOR WHICH THERE IS SUBSTANTIATING EVIDENCE.

SINCE 11 SEPTEMBER 2001, AMNESTY INTERNATIONAL HAVE EXPRESSED CONCERN ON NUMEROUS OCCASIONS AT THE ARBITRARY ARREST AND UNLAWFUL DETENTION OF PEOPLE SUSPECTED OF LINKS, OFTEN ARBITRARILY ON THE BASIS OF NATIONALITY OR RELIGION, WITH AL-QAEDA.

PRIOR TO THE ARRESTS THE GAMBIA HAD HAD NO KNOWN LINKS TO 'TERRORIST' GROUPS ALIGNED TO AL QAEDA. BY THE TIME OF THE ARRESTS THE GAMBIA HAD NOT INTRODUCED SPECIFIC ANTI-TERRORISM LEGISLATION IN THE WAKE OF SEPTEMBER 11 ALTHOUGH SINCE FRIDAY, THE NATIONAL ASSEMBLY HAD RATIFIED BILLS OPPOSED TO TERRORISM. THESE ANTI-TERRORISM CLAMPDOWNS AND THE LATEST LEGISLATION THAT FOLLOWED THEM INDICATE THE GAMBIA GOVERNMENT'S COMMITMENT TO THE CRUSADE AGAINST TERROR. OUT OF TWELVE UN CONVENTIONS ON TERRORISM, IT HAS SIGNED TEN.

SINCE OCTOBER THE GAMBIA HAS DEVELOPED CLOSE TIES WITH THE UNITED STATES AFTER IT SIGNED AN IMPUNITY AGREEMENT WITH THAT COUNTRY. SUCH AN AGREEMENT CATEGORISED AS 'ARTICLE 98' DEALS, COMMITS THE GAMBIA NOT TO SURRENDER US CITIZENS ACCUSED OF GENOCIDE, CRIMES AGAINST HUMANITY AND WAR CRIMES TO THE INTERNATIONAL CRIMINAL COURT.

[DESCRIPTION OF SOURCE: (INTERNET) GAMBIA NET WWW-TEXT IN ENGLISH - ROOT URL AS OF FILING DATE: HTTP://WWW.GAMBIA NET.COM] THIS REPORT MAY CONTAIN COPYRIGHTED MATERIAL. COPYING AND DISSEMINATION IS PROHIBITED WITHOUT PERMISSION OF THE COPYRIGHT OWNERS.

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How Al Qaeda put Internet internet service of global jihad

By ANDREW HIGGINS in London,
The Associated Press
11/11/02 9:57 AM

KARBY LEGGETT in Guangzhou, China, and ALAN CULLISON in
Washington

The Wall Street Journal

In February 2000, an Egyptian merchant here in the commercial hub of southern China asked a local Internet firm for help in setting up a Web site. After lengthy haggling over the fee, he paid \$362 to register a domain name and rent space on a server.

Chen Rongbin, a technician at Guangzhou Tianhe Siwei Information Co., and an aide went to the Egyptian's apartment. They couldn't fathom what the client, Sami Ali, was up to. His software and keyboard were all in Arabic. "It just looked like earthworms to us," Mr. Chen says.

All he could make out was the site's address: "maalemajihad.com." Mr. Chen had no idea that meant "Milestones of Holy War." Nor that China, one of the world's most heavily policed societies, had just become a launchpad for the dot-com dreams -- and disappointments -- of Osama bin Laden's terror network.

In the months that followed, Arab militants in Afghanistan, a radical cleric living on welfare in London, a textile worker in Karachi, Pakistan, and others pitched in, laboring to marry modern technology with the theology of a seventh-century prophet. Their home page, featuring two swords merging to form a winged missile, welcomed visitors to the "special Web site" of Egyptian Islamic Jihad, a violent group at the core of al Qaeda. A few clicks led to a 45-page justification of "martyrdom operations," jihad jargon for kamikaze terrorism. It explained that killing "infidels" inevitably caused innocent casualties because "it is impossible to kill them separately."

Since the Sept. 11 attacks, radical Islam's use of technology has stirred both scrutiny and fear. The White House has warned that video footage of Mr. bin Laden could hold encrypted messages. The Federal Bureau of Investigation has called for vigilance against hacking into the computers that control vital services. Some experts have wondered if terrorism might even lurk in pornographic Web sites, with instructions embedded in X-rated photos.

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The Milestones of Holy War site signals much more modest cyber-skills. Al Qaeda operatives struggled with some of the same tech headaches as ordinary people: servers that crashed, outdated software and files that wouldn't open. Their Web venture followed a classic dot-com trajectory. It began with excitement, faced a cash crunch, had trouble with accountants and ultimately fizzled.

But the project also illuminates the elusive contours of al Qaeda's strengths: far-flung outposts of support, a talent for camouflage and a knack for staying in touch using tools both sophisticated and simple. Though driven from Afghanistan, al Qaeda still has many hiding places, many channels of communication and -- boasts Mr. bin Laden's senior lieutenant, Egyptian Islamic Jihad chief Ayman al-Zawahri -- many means of attack.

Al Qaeda chiefs communicate mainly by courier, say U.S. officials. But their underlings make wide use of computers: sending e-mail, joining chat rooms and surfing the Web to scout out targets and keep up with events. Since late last year, U.S. intelligence agencies have gathered about eight terabytes of data on captured computers, a volume that, if printed out, would make a pile of paper over a mile high. The rise and eventual demise of maalemaljihad.com -- pieced together from interviews, registration documents and messages stored on an al Qaeda computer The Wall Street Journal obtained in Kabul -- provides an inside glimpse of this scattered, sometimes fumbling, but highly versatile fraternity.

Using Microsoft Front Page and other software, militants in Afghanistan devised graphics and assembled content, packaging hundreds of text, audio and video files for display on the Web. Because of primitive conditions there, they handed some technical tasks to confederates in China and later Pakistan. To upload content, they turned to an ally in Britain, using messengers to deliver compact discs to a shabby rented home in west London.

The Central Intelligence Agency and other security services have tracked Egyptian Islamic Jihad closely for nearly a decade, monitoring Dr. Zawahri's activities alongside Mr. bin Laden in Sudan, Yemen and Afghanistan. Egyptian Jihad's Web site, however, began far from any well-known bastion of Islamic militancy, and beyond the reach of the CIA. Mr. Ali, the Egyptian trader who registered the site in China, lived in Jingui Garden, an upscale complex on Liberation North Road, a few miles from Guangzhou's international airport and a short boat ride from Hong Kong.

A tall, heavyset man with thin, straight hair that dangles over his eyes, Mr. Ali, who also uses the name Mohammed Ali, arrived in China in 1997. To Chinese who met him, he was just another foreign businessman scrambling to cash in on China's vibrant economy. He was a Muslim but didn't seem

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particularly observant. He paid his rent on time, stayed out of trouble and socialized mainly with fellow Arabs.

Contacted by the Journal in August, Mr. Ali denied any knowledge of Egyptian Islamic Jihad or its Web site. But the site's registration records -- it is registered in Beijing -- name him as the registrant and give the fifth-floor apartment where he lived at the time as a contact address for maalemal Jihad.com.

Chinese police say they began monitoring Mr. Ali's movements and phone calls after Jingui property managers told them of inquiries by the Journal. Three days after a reporter's visit, Mr. Ali cancelled his two mobile phones and disappeared. Police say he moved in with an Arab friend in Guangzhou but won't discuss his current whereabouts.

There's no evidence Mr. Ali was directly involved in terrorism. His role in the Web venture, however, suggests a hitherto-unknown jihad support network in southern China and shows how legitimate business can serve as a cover, even unwittingly, for al Qaeda activities.

Before he moved, Mr. Ali told the Journal that he ran his own machinery trading company called ZMZM General Trading. Officials at China's Industrial and Commercial Bureau say they have no record of a company under this name.

A housing rental agreement signed by Mr. Ali in 2000 names a different Guangzhou concern, Almehdhar Trading Co., as his place of work. Mr. Chen, the technician who helped set up maalemal Jihad.com, says Almehdhar arranged his first meeting with Mr. Ali, and they met several times at its office. Almehdhar trades garments out of a cramped room in a downtown Guangzhou building. The firm's owner, a Yemeni named Abubakr Almehdhar, left China late last year, staff members say. Another Yemeni, Ayman Alwan, runs the office. He says Mr. Ali sometimes visited but wasn't an employee. Mr. Alwan says he knows nothing of the Web site.

In the spring of 2000, after negotiating a price with Mr. Ali, Mr. Chen's tiny Guangzhou firm contacted a big Beijing Internet company, Sinonets Information Technology Co., to arrange server space. Sinonets provided Mr. Ali with a facility that let him set up password-controlled mailboxes inside the Web site. "None of us even knew what 'jihad' meant," says George Chen, Sinonet's U.S.-educated president. "We never had any reason to be suspicious."

Nor, say Chinese officials, did China's vast security apparatus. Shortly after the Sept. 11 attacks, Guangzhou police made a sweep through Jingui Garden, checking the documents of foreign residents. Mr. Ali's were in

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order. China, though efficient at crushing Muslim separatists in its northwestern Xinjiang region as well as other dissent, has prickly relations with foreign intelligence services. In contrast to some Asian nations, China has uncovered no suspected al Qaeda activists, despite evidence militants have slipped in and out of China for years.

In the mid-1990s, a senior Egyptian Jihad operative made several trips to southern China posing as a businessman, according to documents seized by Russian police who arrested Dr. Zawahri and two confederates in late 1996 as they tried to enter Chechnya. Russian investigators found details of an account at the Guangzhou headquarters of the Bank of China. Still active, it belongs to an Arab friend of Mr. Ali.

Four months after its Chinese genesis, Egyptian Jihad's Web site put down roots in more-traditional Islamist terrain. In July 2000, maalemaljihad1.com, a sister site, was registered in the Pakistan port city of Karachi, a hotbed of Islamic militancy.

Egyptian Jihad, a group that announced a united front with Mr. bin Laden against America in 1998 and whose operatives figured prominently in the upper echelons of al Qaeda's operational command, often faced technical troubles. It may have used two Web sites as a precaution, says Yasser al-Sirri, a London Islamist who recently revived his own site, after being cleared of helping arrange the murder of the anti-Taliban Afghan warlord Ahmed Shah Massoud days before Sept. 11.

Registration records show maalemaljihad1.com was set up in July 2000 by a Karachi Web-design company called Advanced Learning Institute & Development Center. Its manager, Muhammed Ali Aliwan, says he registered the site on behalf of Ahmed Bakht, who worked in a local textile factory.

Reached by phone in Karachi, Mr. Bakht initially denied any knowledge of the jihad Web site. But later he said he had helped set it up on behalf of someone else, whom he wouldn't name. Soon after the call from a reporter, Mr. Bakht, too, vanished. His relatives say he left on a trip.

With technical foundations laid, militants in Afghanistan set about providing content for the Milestones of Holy War sites. The hard drive of the computer found in Kabul last winter contained the building blocks: statements by Mr. bin Laden and Dr. Zawahri, religious tracts, a photo album of "martyrs" and back issues of al-Mujahidoon, an often-vituperative Islamist newsletter.

The Kabul computer also contained news digests, including video recordings of bulletins from al Jazeera and other TV stations -- with the

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faces of unveiled female news readers blacked out. U.S. officials say Mr. bin Laden shut down his satellite phone following news-media reports that the CIA was listening to his calls to his mother.

While fiercely hostile to any religious or social norms tinged by modernity, Islamists "have no problems with technology," says Omar Bakri, a radical cleric from Syria who lives in Britain. "Other people use the Web for stupid reasons, to waste time. We use it for serious things." (U.S. officials say Islamists weren't always so earnest: Many computers the CIA recovered from suspected al Qaeda operatives in Afghanistan and elsewhere contained pornographic material.)

In the fall of 2000, someone using the computer the Journal obtained in Kabul drafted an e-mail to Abu Qatada, a Palestinian preacher who had lived in Britain since 1993. It said a computer disk would be sent to him and asked him to upload its contents onto maalemal Jihad.com.

The unsigned message gave punchy instructions. It notified Abu Qatada of a password and told him to create an internal mailbox under the name Al Jihad. "It is extremely important to establish this mailbox," said the message. Abu Qatada — also known as Omar Mohamed Othman — was also asked to "please write to the brothers" via Hotmail.

Abu Qatada took pride in his computer skills, fellow Islamists say. Besides helping out with maalemal Jihad.com, he ran his own Web site and frequently joined chat-room debates. He would spend hours each day tapping at his computer in the front room of his rented house on a quiet street in Acton, west London. Neighbors say he kept the curtains closed and rarely spoke to them but often received bearded visitors.

In an interview late last year, Abu Qatada denied any terrorist links, describing himself as an honest preacher with "a big mouth and a big belly." But messages on the Kabul computer, to and from Abu Qatada, indicate extensive contacts with operatives in Afghanistan. European investigators say Abu Qatada acted as both a spiritual guide and a liaison officer, passing messages between scattered al Qaeda cells.

Last December, shortly before Britain adopted a new antiterrorist law, Abu Qatada vanished from his Acton home, stiffing his landlord and owing \$700 on his cellphone service. He would turn up in London again later.

A few weeks after the drafting of the first e-mail message to Abu Qatada in late 2000, a militant in Kabul code-named Fat hi wrote a follow-up note to be delivered to the cleric by courier. "The bearer of this message is a brother we trust," said Fat hi, an alias used by Tariq Anwar al-Sayyid Ahmad, a veteran associate of Dr. Zawahri, the Egyptian Jihad leader, and

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Mr. bin Laden's righthand man. "He will be the link between us and you. He has the CD we promised to send you containing our products. Please add some of the products to our site." Most important, he said, was transferring audio and video files to the site.

What these files contained wasn't specified. The Kabul computer held sermons and recruitment videos, including footage of militants taking potshots at a lifesize image of Bill Clinton. Clips from Walt Disney cartoons and wildlife films were spliced with hard-core jihad films, a technique apparently used to help conceal the content of al Qaeda videos and make it easier for traveling operatives to carry copies through customs.

Appended to Fat'hi's note was a shopping list for tools needed in Web-site construction, such as Ulead Cool 3D, for animation and three-dimensional effects, and WebPainter, for animation and graphics. "Please make sure you buy the latest," wrote Fat'hi, adding that the courier must return with them quickly to Kabul.

Relations were sometimes testy. "The Web site is OK until now, thank God, but it would have been better if you had done what I asked," said a message bearing the name of Abu Qatada in London, who complained of trouble uploading "the doctor's words," an apparent reference to statements by Dr. Zawahri.

Much of the software on the Kabul computer was pirated. This included a program that muttered Bism Allah ("in the name of God") each time the machine was booted up. Al Qaeda apparently ignored a request from the program's designers in Pittsburgh for a \$24.95 registration fee. The program had been unregistered for 81 days when Kabul fell last Nov. 13.

Also tight-fisted was Mr. Ali, the Egyptian who registered maalemajihad.com in China. In February 2001, the Internet company hired the prior year informed Mr. Ali that his contract for server space would expire unless he paid an additional fee. Mr. Ali, says his Chinese translator, declined to pay.

His reluctance to cough up was motivated in part by dissatisfaction with the Chinese site's erratic operation; e-mail traffic stored on the Kabul computer indicates. "I want you to try to enter and use the site. If you are able to do so I will call the company and pay the renewal fees," says an unsigned message from the same Hotmail account. Abu Qatada had been told to use to contact the "brothers." A few weeks later, Mr. Ali decided to renew the account after all, paying an additional \$120 to Chen Rongbin, the technician who visited his apartment earlier. Mr. Chen sent it to Simonets in Beijing.

But now the bookkeepers messed up. Simonets says the accounting

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department mislaid Mr. Ali's money. The renewal order was never processed. Maalemajihad.com crashed.

The site's Pakistan-registered twin staggered on for several months but then crashed in the summer of 2001 after Mr. Bakht failed to pay renewal charges. Islamists still had many communications outlets sympathetic to Mr. bin Laden and Dr. Zawahri, but not the "special Web site" supervised from al Qaeda headquarters in Afghanistan.

Pathi, the Egyptian Islamic Jihad veteran who helped organize the Web sites, content, died in a U.S. bombing raid in Afghanistan. Those who set up the Web sites vanished, but one figure stayed in touch. At a London gathering of Islamic radicals in July, the organizer read a statement of support he said he'd received via the Web from an absent champion of global jihad: Abu Qatada.

Late last month, British police raiding a south London public housing block seized the Palestinian cleric. He has not been charged but is being held as a terror suspect under a new British law introduced after the Sept. 11 attacks that permits the detention without trial of foreigners deemed a danger to national security.

Held in a high-security jail, he has not responded publicly to his arrest. But Islamist supporters denounced his detention, mostly via statements on the Internet such as: "May Allah secure his rapid release."

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The Recruiters

Reporter: Terence McKenna
 Producer: Alex Shprintsen
 Editor: Annie Chartrand
 Camera: Maurice Chabot
 March 16, 2004



Abu Qatada

Abu Qatada is a Palestinian who lives as a political refugee in London, UK. He says he is merely a religious leader and teacher. He is accused of being a key recruiter of mujahedeen (new soldiers for Jihad, Islamic holy war) for al-Qaeda.

[Read the transcript of the full interview with Abu Qatada](#)

Qatada believes it is the duty of every Muslim to support the Islamic holy war. He also says the United States is the enemy.

Abu Qatada: *"The role of mujahedeen is dictated by what the prophet said. Whoever fights to make the word of God supreme, then it is for the sake of God. Therefore, if the jihad is to make the word of God supreme, this is what we call Islamic jihad."*

CBC's Terence McKenna: *"Do you incite hatred against the U.S.?"*

Qatada: *"No doubt, if anybody asks me, 'Is the American, or are the Americans the enemy of our peoples?' my answer would be, 'Yes, they are the enemy.'"*

CBC: *"In 1998, Osama bin Laden issued this fatwa against the U.S. Did you agree with that fatwa?"*

Qatada: *"No doubt that my previous answer about promoting or inciting hatred towards America because of what they are doing to our peoples will explain that."*

"The relationship between me and those men is just that of a mufti, a religious person who gives sermons to other Muslims. It's only the relationship between a leader and his disciples."

Authorities in Britain can't prove Qatada has had any involvement in any terrorist activities. Other countries accuse him of participating in

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Exhibit 21

terrorism, but if no crimes have been committed on British soil, there is nothing the police there can do.

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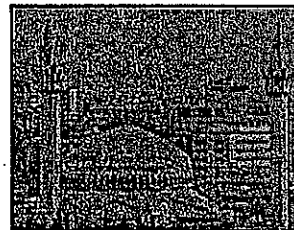
Gilles Kepel

Gilles Kepel, a leading academic expert on Islamic militants, says there are dozens of suspected terrorists like Abu Qattada living in London.

"Britain was perceived mainly as a sanctuary and no terrorist activity took place in Britain, probably for that reason," says Kepel.

"Britain was even nicknamed by the militants 'Londonistan,' meaning that people from Afghanistan, Pakistan, what you call in English 'The Stans,' had gathered in London where they found, for many of them, political asylum, and they were able to organize their networks. Probably the condition for the deal, but this was never made explicit of course, was that they would not have any activity against British interests on British soil."

The government of Jordan accuses Qatada of planning and funding terrorist activities there.



Jordan

In Amman in 1998, a bomb was discovered and disarmed at the American School and another bomb that went off in a car at the Jerusalem Hotel where many Americans stay.

Police interrogated a group of young Muslim militants who talked about a plan to blow up hundreds of American tourists at the Radisson Hotel and other tourist sites. They identified a man named Raid Hijazi as their immediate superior, who has since been found guilty of terrorism and sentenced to death.

The prosecutor at the trial, Colonel Mahmoud Obeidat, says the mastermind of the plot was Abu Qatada. In Jordan, Qatada has been tried in absentia and found guilty of conspiracy to commit terrorism.

CBC: "The Jordanian government has accused you of planning and funding terrorist activities in Jordan. How do you respond?"

Qatada: "The Jordanian regime has got an art of making up and discovering things which may lead to the imagination. So I'm not really surprised of what they are saying."

CBC: "Do you approve of violent attacks against the Jordanian regime?"

Qatada: "I believe that these regimes, which exist in our countries, are



useless. They shouldn't exist."

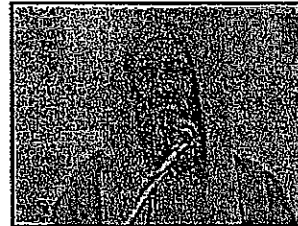
Abu Qatada

Jordan is not the only country making allegations against Abu Qatada. Newspapers in Algeria regularly identify him as the mastermind of the GIA, the Algerian Armed Islamic group, which has committed numerous massacres in Algeria.

Qatada: *"This is an ongoing accusation. I was told that I was the spiritual father of the GIA, and now, I'm told that I'm the spiritual father of the al-Qaeda group. I have no connection between any organization or any group whatsoever."*

CBC: *"What is your opinion of Osama bin Laden?"*

Qatada: *"I believe that he's not evil. He's a human being, he's Muslim and he lives and feels the injustice, which is infringed upon our peoples. That's why he doesn't like the American regime."*



Osama bin Laden

Authorities have connected Abu Qatada with suspected terrorists in various parts of Europe. One of them, Sami Ben Khemais, was captured on a police listening device citing the instructions from his favourite religious leader, Abu Qatada.

Sami Ben Khemais: *"Abu Qatada can convert anyone because he knows all religions, sects and philosophies. Abu Qatada has ordered all Muslims to spend their money on the cause of Allah, no matter how much money they have - thousands, millions, it's not important. He says that money for God's cause should be given to the mujahedeen, and not to the mosques."*

"The relationship between me and those men is just that of a mufti, a religious person who gives fatwas, and gives sermons to other Muslims," says Qatada. "The relationship has not gone further. It's only the relationship between a leader and his disciples."



CBC's Terence McKenna

CBC: *"The police in France, Spain and Italy accuse you of planning and funding terrorist activities in those countries. How do you respond?"*

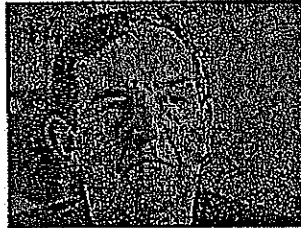
Qatada: *"I haven't heard those accusations. One of the guys planning some actions had visited me but I haven't heard these authorities directly accuse me of planning*

actions."

In February 2001, British police raided Abu Qatada's house in London and found more than \$200,000 in cash in various currencies.

CBC: "How do you explain this large amount of money that was found in your possession by the British police?"

Qatada: "Undoubtedly, the amount was exaggerated 10 times more than the actual value found in my house. You can ask the British government what they found written on the envelopes where the money was found in my house. It was written 'to the poor,' 'for the needy families,' 'for building a mosque.' These are the activities for which the money was raised. Therefore, the British government today owes every poor Muslim and every Muslim in England some money because some of this money was to buy a place for prayer."



Jean-Louis Bruguiere

In Paris, Judge Jean-Louis Bruguiere has long suspected Abu Qatada of planning and financing terrorist activities.

"We talk a lot about money laundering, but I would say that there are also reverse operations," says Bruguiere. "There is money that comes from legal sources, for example, money that is raised through mosques, but

which is going to be used for terrorist ends."

Qatada: "These are lies. Most of the money transferred was done by legal means and it is known where it goes. It goes to the families of people imprisoned, poor families and Muslims who need it."

CBC: "Did any of this money go to support jihad activities in other countries?"

Qatada: "Yes. The answer is yes – like the Chechens for example."

CBC: "Did you use money to support jihad activities in other countries as well?"

Qatada: "I don't remember. This did not happen."

After the attack on the World Trade Center in New York, police quickly established that the leader of the hijackers was an Egyptian named Mohamed Atta. When the police went to Atta's last-known apartment in Germany, they discovered 19 video cassettes of the teachings of Abu Qatada. Still, Qatada denies any responsibility for the September 11 attacks.



Mohamed Atta

Qatada: "First of all, there is no group that belongs to me. I am a Muslim who deals with all Muslims and there is no connection between me and any other group. But I think that the future will produce to the Western nations people and Muslims who are more violent than the ones existing now."

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CBC: "We spoke earlier about your hatred for America. What was your reaction to the events of September 11? Did you think America got what was coming to them?"



Qatada: "Until now, America did not ask itself, 'Why is this happening to us?' Do you think that by what the U.S. is doing now, it can stop what will happen to it in the future? Not only from Muslims, but there are lots of people in the world who hate the U.S. Is this going to end? Why doesn't the U.S. reconsider itself to find out the reason behind all this? The Americans never asked this question, in spite of the fact that it is a logical one, 'Why is this happening to us?'"

Abu Qatada defends the killing of civilians while conducting holy war.

"Islam prohibits the killing of women and children. But sometimes during jihad mistakes happen and non-combatants, women and children, do get killed," says Qatada. "The probability of non-fighters being killed does not prohibit jihad. This is an Islamic as well as a worldly principle."

CBC's Terence McKenna: "Are you surprised that a man like Abu Qatada has not yet been arrested?"

Bruguiere: "I can say that if he was in France he would already have been arrested in this business. This was not the case because he was in Britain, and Britain apparently permits this sort of activity."



Abu Qatada's home in London

Abu Qatada is on the American government's list of most wanted terrorists. His name also appears on terrorist lists in France and in Canada. But not in Britain.

Jordan has asked for the extradition of Qatada to face terrorism charges but because there is no extradition treaty between Jordan and the United Kingdom, he is safe.

[Go back to introduction](#)

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**U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Border Patrol**

Terrorist Organization Reference Guide

January 2004

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Exhibit RA2

4173

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Strength

Unknown.

Location/Area of Operation

Turkey, primarily Istanbul. Raises funds in Europe.

External Aid

Unknown.

34. The Salafist Group for Call and Combat (GSPC)

Description

The Salafist Group for Call and Combat (GSPC), an outgrowth of the GIA, appears to have eclipsed the GIA since approximately 1998, and is currently the most effective armed group inside Algeria. In contrast to the GIA, the GSPC has gained popular support through its pledge to avoid civilian attacks inside Algeria. Its adherents abroad appear to have largely co-opted the external networks of the GIA, active particularly throughout Europe, Africa, and the Middle East.

Activities

The GSPC continues to conduct operations aimed at government and military targets, primarily in rural areas, although civilians are sometimes killed. Such attacks include false roadblocks and attacks against convoys transporting military, police, or other government personnel. According to press reporting, some GSPC members in Europe maintain contacts with other North African extremists sympathetic to al-Qaeda. In late 2002, Algerian authorities announced they had killed a Yemeni al-Qaeda operative who had been meeting with the GSPC inside Algeria.

Strength

Unknown; probably several hundred fighters with an unknown number of support networks inside Algeria.

Location/Area of Operation

Algeria.

External Aid

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Algerian expatriates and GSPC members abroad, many residing in Western Europe, provide financial and logistic support. In addition, the Algerian Government has accused Iran and Sudan of supporting Algerian extremists in years past.

35. Sendero Luminoso (Shining Path, or SL)

Description

Former university professor Abimael Guzman formed SL in Peru in the late 1960s, and his teachings created the foundation of SL's militant Maoist doctrine. In the 1980s, SL became one of the most ruthless terrorist groups in the Western Hemisphere. Approximately 30,000 persons have died since Shining Path took up arms in 1980. The Peruvian Government made dramatic gains against SL during the 1990s, but reports of a recent SL involvement in narco-trafficking indicate that it may have a new source of funding with which to sustain a resurgence. Its stated goal is to destroy existing Peruvian institutions and replace them with a communist peasant revolutionary regime. It also opposes any influence by foreign governments, as well as by other Latin American guerrilla groups, especially the Tupac Amaru Revolutionary Movement (MRTA).

In 2002, eight suspected SL members were arrested on suspicion of complicity in the 20 March bombing across the street from the US Embassy that killed 10 persons. They are being held pending charges, which could take up to one year. Lima has been very aggressive in prosecuting terrorist suspects in 2002. According to the Peruvian National Police Intelligence Directorate, 199 suspected terrorists were arrested between January and mid-November. Counterterrorist operations targeted pockets of terrorist activity in the Upper Huallaga River Valley and the Apurimac/Ene River Valley, where SL columns continued to conduct periodic attacks.

Activities

Conducted indiscriminate bombing campaigns and selective assassinations. Detonated explosives at diplomatic missions of several countries in Peru in 1990, including an attempt to car bomb the US Embassy in December. Peruvian authorities continued operations against the SL in 2002 in the countryside, where the SL conducted periodic raids on villages.

Strength

Membership is unknown but estimated to be 400 to 500 armed militants. SL's strength has been vastly diminished by arrests (including its founder Abimael Guzman) and desertions, but appears to be growing again, possibly due to involvement in narco-trafficking.

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[Handwritten signature]

24-11-2004

3.a.1 In Britain the country I was living in just before my traveling to Africa and my subsequent kidnaping did not classify Abu Qatada as Al Qaeda, [redacted]

verbosely, so I can specify

the meaning

clarify

to it??

Note *

Please

reply

[Large redacted section]

During that time and throughout my 18 years in Britain I hardly had any negative contact the police and the secret ~~services~~

I had no indication what so ever the Abu Qatada is someone who has contact with Al Qaeda. The word

Al Qaeda I only learned of after 11-9

Abu Qatada my friend for few years was not wanted he was free ~~living~~ ~~normally~~ ~~the~~ when I helped him find a flat to stay in.

Note *

3.a.2

This [redacted]

3.a.3 What Abu Qatada knew or did not know, was and continues to be his business. I was not aware of his alleged activities nor did I participate in it in any way whatsoever. I would like to point out here that whatever help or assistance I offered to Abu Qatada were day to day things and needs - that in no way will be considered to be illegal in Britain or in any other place in the world. And does not threaten any individual or country. (eg of my assistance if you visit). I myself have never traveled to Pakistan or Afghanistan that is until US persons kidnaped me and put me on a flight to Afghanistan.

3.a.4 Being that Abu Qatada was arrested in Britain for whatever purpose. Allegedly a threat to national security and here for agent sake I will accept this now I was in Britain living there before during and after his arrest. Known to the authorities there not hiding from them, they know my address and everything else to know. They did not arrest me - Britain is the number 1 (almost) ally to the US and there interests is intertwined and I knew that very well. Despite that I was not arrested. *Note 4177

also those people who have top
 are making Abu Qatada
 who know Abu Qatada
 have not been arrested
 who know Abu Qatada

3-a-5 Yes I transferred funds those funds went from London to Jordan. To Abu Qutadah father. Coincidentally Abu Qutadah's father was questioned by the Jordanian intelligence agency (and I am sure you know that they are a bit more persuasive than you). And nothing came out of that. These funds go to poor families in Jordan special during our festive season. I will always be ready to offer my assistance to the poor and needy what ever religion or ~~set~~ race. And during my life in Britain I always exercised this.

The reality today shows that that part of world is poor and the flow of funds from the first world to the third world should be encouraged and not hindered a ~~thing~~ ~~me~~ I sometimes say that the transfer was directed by Abu Qutadah to me. Now I do not work for him nor am I his follower. When that happened he politely asked me as a friend. When I did I did it legally under my own name (not a pressured one) with the proper paperwork.

It is very important for you to fully understand that I did not participate in any illegal activity what ever

Note



The new law which was brought out after the 11-9 is then and now being challenged in British courts and in the European courts.

Note: It took ~~some~~ ^{the good part} of two years to determine the accusations. It is unfortunate that I only had some two hours to read understand and may be try and defend my self in.

3:00:06 It is very important for this Tribunal to understand the process (which my lawyer describe as an ordeal).

... and maybe you would prefer it to be called a legal process. ^{now} let me tell you truthfully! If

you accept that there are some detainees who say the truth we (my self my Bustler, ~~and~~ said a friend)

go off the plain approached the ~~of~~ emergency officer he held on to our travel documents did not say

one word. pointed to ^{stand} the side again with out saying one word. We were taken to an ordering room

in the Airport and though out they were saying that there is no problem this is just routine

AND this gain gain ^{was played} by all the officials there including US when we met the very next day

The way things happened in Gambia is just like a Criminal Gang would operate (that from TV not

experience).

As being "the Transport to us custody" in Gambia the US officials were running the show in

Gambia. Trivial matters like some of our things were stolen. Some of our money was being taken

the material we exported to Gambia to start the factory was used to build cells for us. not

giving us adequate for our big hygiene standards (non existing). All of course very very legal. 4179

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NO. 982 D88

Our ref: GP/pk

Your ref:

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Email: [name]@birnbergpeirce.co.uk

Bisher Al Rawi
Guantanamo Bay
Cuba

18 August 2004

Dear Bisher,

I am writing to introduce you to Brent Mickum (of the law firm Keller and Heckman LLP) who has obtained clearance to visit you as an independent lawyer to advise you. The conditions under which he is allowed to visit you are far from ideal. Any documents that he takes to the visit, including this letter, are subject to scrutiny by the authorities at Guantanamo Bay. This process is of course objectionable, and Brent Mickum is complying with it because, using the best judgement we can, it is of urgent importance that you see an outside and independent person who has your interests at heart, when you have been allowed no such contact for the past more than one and a half years.

I write this letter to reassure you that Brent Mickum is part of a legal team in the United States, who is acting with the blessing and on the instructions of your family and of me on behalf of your family. I set out something of the history of instruction of lawyers and actions on your behalf of which you may be completely unaware.

Immediately after you were unlawfully detained in the Gambia, your family initiated legal action on your behalf there. However, after 28 days, and after [redacted] had returned to England, your family were informed that you were in Bagram Airbase in Afghanistan. For the next year and a half, acting on your family's instructions, and jointly with them, I have instructed lawyers in America to assist in attempts to achieve your release from unlawful detention, in particular, after we learned that you had been moved to Guantanamo Bay. Since that time we have instructed lawyers in America to bring all possible proceedings on your behalf that could challenge the legality of your detention, including a petition to the Inter-American Committee for Human Rights which made strong recommendations in respect of the detention without trial of detainees in Guantanamo.

I instructed the Centre for Constitutional Rights in New York on your behalf to commence a challenge in the US courts. (They had already initiated *habeas corpus*

Partners
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Richard Brown

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Susan Upton

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Richard Despicht
Daniel Quashilla
Alexandra Lyon
Henry Miller
Lucie Neesham

Maria Willis Stewart
Harriet Wulrich
Sarah Woodhouse
Helen Zahle

Immigration Caseworkers
Irene Campbell
Liz Farrell
Penny Gaudes



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The firm is regulated by the Law Society in the conduct of investment business

Exhibit D-C

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NO. 902 003

proceedings in the courts in America in early 2002 on behalf of two other British residents, [REDACTED] and [REDACTED] from Tipton in the West Midlands, who had been detained in Guantanamo Bay since early 2002.) Their case finally reached the Supreme Court in April of this year, and judgement was given on 28th June 2004, finding that the United States Government had been wrong to argue as it had in the lower courts, that Guantanamo Bay was not subject to the supervisory jurisdiction of the US courts. (I instructed the lawyers at the Centre for Constitutional Rights to join your own case in that action, and that occurred. The case was decided in the name of *Shafiq Rasul and Others v George Bush and Others*; the case was considerably advanced at the stage that your case was joined to it, and was heard in April 2004 by the Supreme Court. The findings affect all detainees at Guantanamo Bay.)

It is thus that you have now come to meet Brent Mickum. He is an attorney in Washington, and following the Supreme Court case, his firm agreed to act with the Centre for Constitutional Rights to achieve a resolution of your position. Brent Mickum will undoubtedly discuss with you further our own view in relation to the tribunals and the process under which you are held. That view is strongly held; that it is a process that does not comply in any way with any minimum international norms of basic human rights and due process. This view is shared by members of the government in this country including the Attorney General, Lord Goldsmith, who have stated publicly that the proposed military tribunals do not constitute a fair procedure that the United Kingdom can acknowledge as adequate.

We have been trying continuously for a year and a half to ensure that the United Kingdom recognizes its responsibility towards you and your family and agrees that the appropriate country to which you should be returned is this. We do not at present have that reassurance, but are seeking to bring proceedings here if that responsibility is not acknowledged.

We hope that by now, the beginning of the end of your ordeal has been achieved, it has been a great privilege for the past one and a half years, although one that has been extremely distressing and frustrating, to have worked with your family who have been tireless in campaigning for your release.

We wish to emphasise that the whole process under which you were unlawfully kidnapped in the Gambia, i.e. subject to no lawful process of arrest, detention, deportation or extradition, contaminates in law the whole process that has followed thereafter, even had that process been, as it so clearly has not, a process that accorded with international minimum obligations. We have absolutely no doubt, having interviewed in detail some of those who have returned to the United Kingdom from Guantanamo Bay, and who were in US detention in Afghanistan, that you had been subjected to an unimaginable ordeal. Nothing in that process could possibly stand the scrutiny of a proper and independent court. In the absence of that, nothing lesser should be substituted nor agreed with.

We shall continue to act on your behalf and on behalf of your family, in every way that is possible until you are safely back here and with your family once again. Those actions are taken in cooperation with colleagues in the United States and it is thus I introduce Brent Mickum to you and to confirm that it is with the knowledge and blessing

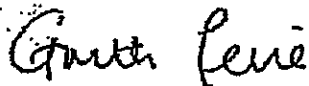
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of your family here. I enclose a copy of a letter from your sister confirming that instruction which has in fact been on going for the past year and a half. That letter is included with this in order that you be reassured that Brent Mickum is introduced to you through ourselves.

We hope that your days in Guantanamo Bay are numbered, and are fast drawing to an end. We have considered it important that Brent Mickum, the first lawyer of the team to obtain clearance, comes to see you at the earliest opportunity. Whilst there may be restrictions upon what Brent Mickum is able to say as a result of the wholly wrong, in our view, conditions under which he is obliged to see you, we hope nevertheless that you will find the meeting of benefit. I look forward to seeing you at the earliest possible opportunity.

Yours sincerely,



Gareth Peirce
Birnberg Peirce & Partners

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WRITER'S DIRECT ACCESS

George Brent Mickum
(202) 434-4245
Mickum@khlaw.com

August 12, 2004

TO: Bisher Al-Rawi
Camp Delta
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

Dear Bisher:

We are civilian United States lawyers who are voluntarily working on your behalf. We are writing to inform you that your family, your English solicitor Gareth Pierce, and the Center for Constitutional Rights in the United States have asked us to file a legal case in the civilian courts in the United States for you. Your family contacted Gareth Pierce, the well-known U.K. solicitor, to challenge the lawfulness of your detention. They, in turn, contacted Clive Stafford Smith, who is originally from Britain and has spent the last twenty years working on behalf of people on death row in the southern United States. We have been asked to do everything we can to help secure your legal rights.

We filed a legal case (a habeas corpus challenge) for you on July 6, 2004 in the United States federal court in Washington, D.C. It challenges your classification as an alleged "enemy combatant" and the lawfulness of your detention under the United States Constitution, laws, and treaties as well as international law. Your case is currently pending in the U.S. civilian court and we are pressing forward with it as fast as we can.

We are your civilian United States lawyers. We have no connection to the U.S. military. We will continue to communicate with you about your legal case in the future.

We are making arrangements with the Government to travel to Guantanamo in the near future. We look forward to meeting you.

Sincerely,
Keller and Heckman LLP



George Brent Mickum IV
Douglas J. Behr

WASHINGTON, D.C.

BRUSSELS

SAN FRANCISCO

APPROVED BY
US FORCES



SEP 28 2004

JTF/ JDOG S-2
GUANTANAMO BAY, CUBA

My dearest Bisher

20-09-04

You have been far for very long time and I miss you very much. No news from you for a long time nearly a year. Although I and your sister wrote ten letters to you but no reply. I and your sister went to the Red Cross and I asked them why there is no reply, they said some letters are still with the Americans and are being censored. We said we are worried about you and after few months they replied that they met you and you are fine but did not want to write. This made me very worried.

I am not used to be far from you and I always remember your happy child hood and how we used to spend all our time together and I how I brought you up. All this is gone within few seconds. But thank God there are still some good people from all over the world the UK and other places who have humanity.

Gareth Pierce contacted us and told us that the American lawyer called Mr. George Brent Mickum will come to see you in Guantanamo Bay and God willing he is going to help you and defend you. Please do not accept any lawyer from the military court because he will be the judge and the jury. So you know Iraq is occupied and there is a war there and it is very unsafe to live there and I explained Mr. Mickum to explain to you.

I did send a letter to [redacted] because you asked me to do so but she did not reply. Please discuss with your lawyer as to which country is safe for you to return after you get a letter from the American confirming your innocence.

We tried with the British Govt and met Jack Straw (Foreign Secretary) to help us to bring you back home to UK because all the family is British and we have lived here for 20 years. They said you did not apply for the British passport therefore you are not a British citizen. The oppression that happened to you without any reason. I pray for all of us to be wise and patient and should ask God to help us.

May God help you to be released soon and choose the right country for you? My dearest son Bisher I am sending this letter to you through your lawyer and waiting for your reply. Can you give the letter to Mr. Mickum? Everyone here miss you very much.

Detainee - Attorney materials

Reviewed by Privilege Team member and forwarded

LCDR [REDACTED], JAGC, USN
Deputy Admiralty Counsel
Office of the Judge Advocate General
Admiralty and Maritime Law Division (Code 11)

1322 Patterson Ave., SE, Ste 3000
Washington Navy Yard, DC 20374-5066

Direct dial: [REDACTED]

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September 1, 2004

WRITER'S DIRECT ACCESS

TO: Bisher Al-Rawi
Camp Delta
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

George Brent Mickum IV
(202) 434-4245
mickum@khlaw.com

Dear Bisher:

By now, we hope you have received letters from your family and from your English solicitor, Gareth Peirce, introducing us as your United States lawyers. You also should have received a copy of the Petition for the Writ of Habeas Corpus that we filed on behalf of you, Bisher Al-Rawi, and [REDACTED]. Please tell officials at Guantanamo that you want to write to your attorneys. When you write, let us know what materials you have received. You may reach us at the following address:

George Brent Mickum, Esq.
Douglas J. Behr, Esq.
Keller and Heckman LLP
1001 G. Street, N.W., Suite 500W
Washington, D.C. 20001

We were scheduled to meet with you during the week of August 30. Unfortunately, that trip was canceled because of disagreements over restrictions the military wanted to impose.


As you may know, you have been offered an opportunity by the military to appear before a military tribunal that will decide whether you are an "enemy combatant" against the United States. **We strongly recommend that you do not participate in this proceeding. We also strongly recommend that you do not talk to the "Personal Representative" appointed to assist you.** Among other things, the Personal Representative can be compelled to provide testimony against you. If you have any questions, please write to us immediately

Again let us stress: **We are civilian lawyers. We are not connected to the U.S. military or to the U.S. Government.** We hope to meet with you within the next several weeks to talk with you about your case. Please feel free to write to us. However, be aware that the military authorities may read any mail sent to us.

We look forward to meeting you.

KELLER AND HECKMAN LLP

Sincerely,
Keller and Heckman LLP

A handwritten signature in black ink, appearing to read "G. Mickum IV", written in a cursive style.

George Brent Mickum IV
Douglas J. Behr

violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS - INTERNATIONAL LAW
UNLAWFUL DEPRIVATION OF LIBERTY)

51. Petitioners expressly incorporate paragraphs 1 - 50 by reference.
52. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, [REDACTED]
[REDACTED]
[REDACTED]. President Bush has ordered the prolonged, indefinite, and arbitrary detention of Petitioners, without legal process, in violation of binding obligations of the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the President's Military Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS - INTERNATIONAL LAW
UNLAWFUL CONDITIONS OF CONFINEMENT)

53. Petitioners incorporate paragraphs 1 - 52 by reference.
54. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, [REDACTED]
[REDACTED]
[REDACTED]. The President's Military Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT - TORTURE)

55. Petitioners incorporate paragraphs 1 - 54 by reference.
56. The acts described herein were inflicted deliberately and intentionally for purposes of punishing and intimidating the detained Petitioners.

66. The acts described herein constitute arbitrary arrest and detention of Petitioners in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
67. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to bring about the arbitrary arrest detention of the detained Petitioners.
68. As result of Respondents' unlawful conduct, the detained Petitioners were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse, and are entitled to monetary damages and other relief to be determined at trial.

EIGHTH CLAIM FOR RELIEF
(DUE PROCESS - FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

69. Petitioners incorporate paragraphs 1 - 68 by reference.
70. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, ~~_____~~, and customary international law.

NINTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

71. Petitioners incorporate paragraphs 1 - 70 by reference.
72. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the detained Petitioners without Congressional authorization.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMIL EL-BANNA,
Detainee, Camp Delta
Guantánamo Bay Naval Station
Guantánamo Bay, Cuba;

[REDACTED]
as Next Friend of Jamil El-Banna;

BISHER AL-RAWI,
Detainee, Camp Delta
Guantánamo Bay Naval Station
Guantánamo Bay, Cuba;

[REDACTED]
as Next Friend of Bisher Al-Rawi;

MARTIN MUBANGA,
Detainee, Camp Delta
Guantánamo Bay Naval Station
Guantánamo Bay, Cuba; and

[REDACTED]
As Next Friend of Martin Mubanga;

Petitioners,

v.

GEORGE W. BUSH,
President of the United States
The White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20500;

DONALD RUMSFELD,
Secretary, United States
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000;

CASE NO. 1:04-CV-01144 (RWR)

Judge Richard W. Roberts

FIRST AMENDED
PETITION FOR WRIT
OF HABEAS CORPUS

10042

Exhibit D-11

I.
JURISDICTION

4. Petitioners bring this action under 28 U.S.C. §§ 2241 and 2242, and invoke this Court's jurisdiction under 28 U.S.C. §§ 1331, 1350, 1651, 2201, and 2202; 5 U.S.C. § 702; as well as the Fifth, Sixth, and Eighth Amendments to the United States Constitution; the International Covenant on Civil and Political Rights; the American Declaration on the Rights and Duties of Man; and customary international law. Because they seek declaratory relief, Petitioners also rely on Fed. R. Civ. P. 57.
5. This Court is empowered under 28 U.S.C. § 2241 to grant this Writ of Habeas Corpus, and to consider the Petition filed by [REDACTED], [REDACTED], and [REDACTED] as Next Friends under 28 U.S.C. § 2242. This Court is further empowered to declare the rights and other legal relations of the parties herein under 28 U.S.C. § 2201, and to effectuate and enforce declaratory relief by all necessary and proper means under 28 U.S.C. § 2202, as this case involves an actual controversy within the Court's jurisdiction.

II.
PARTIES

6. Petitioner Bisher Al-Rawi is an Iraqi citizen and a permanent resident of the United Kingdom who presently is incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. See Exhibit A at ¶ 2. Affidavit of [REDACTED] and attachments thereto ("[REDACTED]"), incorporated by reference herein.
7. Petitioner [REDACTED] is Petitioner Al-Rawi's mother. Ms. [REDACTED] is a British citizen. Because her son has been denied access to legal counsel and to the courts of the United States, [REDACTED] acts as his Next Friend. See [REDACTED] Affidavit, Exhibit A, at ¶ 7. On her own and through British Counsel, Gareth Peirce ("British Counsel"), [REDACTED] repeatedly has tried to contact her son to learn more about his condition and status and to gain access to him. British authorities have rebuffed or ignored Ms. [REDACTED] and British Counsel's requests. See *id.* at ¶¶ 5, 6. The United States has refused to provide any information to Ms. [REDACTED] or to British Counsel regarding the date and circumstances of Petitioner Al-Rawi's arrest or the

- specific reasons for his continued detention at Guantánamo. See Exhibit B at ¶ ____, Affidavit of Gareth Peirce, British Counsel for Petitioner Al-Rawi and attachments thereto ("Peirce Al-Rawi Affidavit"), incorporated by reference herein; [REDACTED] Affidavit, Exhibit A, at ¶¶ 5, 6.
8. Petitioner Jamil El-Banna is a Palestinian and a permanent resident of the United Kingdom who presently is incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. See Exhibit C at ¶ 7, Affidavit of [REDACTED] and attachments exhibited thereto (" [REDACTED] Affidavit"), incorporated by reference herein. Petitioner [REDACTED] is Petitioner El Banna's wife. Because her husband has been denied access to legal counsel and to the courts of the United States, [REDACTED] acts as his Next Friend. See [REDACTED] Affidavit, Exhibit C, at ¶ 8. Through British Counsel, [REDACTED] repeatedly has tried to contact her husband, to learn more about his condition and status and to gain access to him. Both the U.S. and the British Authorities have rebuffed or ignored counsel's requests. See Exhibit D at ¶¶ 17-27, Affidavit of Gareth Peirce, British Counsel for Petitioners El-Banna and [REDACTED], and attachments thereto ("Peirce El-Banna Affidavit"), incorporated by reference; [REDACTED] Affidavit, Exhibit C, at ¶¶ 4, 7 and 8. The United States has provided no information to Ms. [REDACTED] or to British Counsel regarding the date and circumstances of Petitioner El-Banna's arrest or the specific reasons for his continued detention at Guantánamo. See [REDACTED] Affidavit, Exhibit C, at ¶ 4.
9. Petitioner Martin Mubanga is a dual citizen of the United Kingdom and Zambia who is presently incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. See Exhibit E at ¶ 4 & Attachment KM4, Affidavit of [REDACTED] and attachments thereto (" [REDACTED] Affidavit"), incorporated by reference herein.
10. Petitioner [REDACTED] is Petitioner Martin Mubanga's sister. Ms. [REDACTED] is a British citizen who has lived in the United Kingdom since 1976. See [REDACTED] Affidavit, Exhibit E at ¶ 1. Because her brother has been denied access to legal counsel and to the courts of the United States, [REDACTED] acts as his Next Friend. See [REDACTED] Affidavit, Exhibit E, at ¶ 6. On her own and through British Counsel, Louise Christian ("British Counsel"), [REDACTED] has tried to contact her brother to learn more about his condition and status and to gain access to

him. British authorities have rebuffed or ignored Ms. [REDACTED]'s and British Counsel's requests. See *id.* at ¶¶ 5, 6. Other than the British Government's confirmation that Mubanga was seized in Zambia, the British Government and the United States have refused to provide any information to Ms. [REDACTED] regarding the date and circumstances of Petitioner Mubanga's arrest or the specific reasons for his continued detention at Guantánamo. See [REDACTED] Affidavit, Exhibit E, at ¶ 6.

11. Respondent George W. Bush ("President Bush") is the President of the United States and Commander-in-Chief of the United States Military. Petitioners El-Banna, Al-Rawi, and Mubanga are being detained pursuant to President Bush's authority as Commander-in-Chief and under the laws and usages of war or, alternatively, pursuant to the Military Order promulgated on November 13, 2001. Accordingly, President Bush is responsible for Petitioners' unlawful detention. He is sued in his official capacity.
12. Respondent Donald Rumsfeld ("Respondent Rumsfeld") is the Secretary of the United States Department of Defense. Pursuant to the November 13, 2001 Military Order or the President's authority as Commander-in-Chief and under the laws and usages of war, Respondent Rumsfeld has been charged with maintaining the custody and control of the detained Petitioners. He is sued in his official capacity.
13. Respondent Brigadier Gen. Jay Hood ("Respondent Hood") is the Commander of Joint Task Force-GTMO, the task force running the detention operation at Guantánamo. He has supervisory responsibility for the detained Petitioners and is sued in his official and individual capacities.
14. Respondent Col. Nelson J. Cannon is the Commander of Camp Delta, the U.S. facility where the detained Petitioners are presently held. He is the immediate custodian responsible for their detention, and is sued in his official and individual capacities.

III. STATEMENT OF FACTS

15. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind.

16. The detained Petitioners are not, nor have they ever been, "enemy combatants" who were "part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who were engaged in an armed conflict against the United States there." See *Hamdi v. Rumsfeld*, 542 U.S. ___, slip op. at 8-9 (June 28, 2004).
17. Petitioners seek to enforce their right to a judicial determination that there is a factual basis for Respondents' determination that they are "enemy combatants."
18. The Republic of The Gambia is a republic located in West Africa, surrounded by Senegal on three sides and the Atlantic Ocean. The Gambia was colonized by Britain and gained its independence on February 18, 1965. The Gambia is a member of the British Commonwealth of Nations. The Gambia's most recent elections were deemed free and fair by international observers. Extradition from The Gambia to the United States is controlled by the Extradition Treaty between the United States and the United Kingdom signed on December 22, 1931. The Gambia and the United States are at peace.
19. On or about November 8, 2002, Petitioner Al-Rawi departed the U.K. for The Gambia in order to meet his brother and commence work on a joint business project involving the establishment of a peanut oil processing plant there. See [REDACTED] Affidavit, Exhibit A, at ¶ 4. The project had received approval from the Gambian government and had been registered with Gambian authorities. Accompanying him was Petitioner El-Banna and another two colleagues involved in the same business project. After arriving at Banjul Airport in The Gambia, the three travelers and Petitioner Al-Rawi's brother, [REDACTED] who was present to meet them, were all detained by the Gambian authorities. The four men were initially questioned by the Gambian National Intelligence Agency and later, on information and belief, by representatives of the United States (either the Central Intelligence Agency or military intelligence). On information and belief, the interrogation of petitioners involved "stress and duress" techniques at the direction of the representatives of the United States and in violation of international law. After being detained for nearly a month, two of the four men, each of whom had a British passport, were released but Petitioners Al-Rawi and El-Banna remained in Gambian detention. See Peirce Al-Rawi Affidavit, Exhibit B, at ¶ 5.

20. In early 2003, British Counsel for Petitioners was advised that Petitioners Al-Rawi and El-Banna had been secretly transferred from The Gambia to the U.S. Air Force Base in Bagram, Afghanistan. See Peirce Al-Rawi Affidavit, Exhibit B, at ¶ 23. On information and belief, Petitioners were transferred from The Gambia to Afghanistan in custody of the United States. Their transfer took place while a *habeas corpus* petition filed on their behalf was pending before the courts in the United Kingdom.
21. Sometime in 2003, Petitioner Al-Rawi's family was made aware that he had been transferred to Guantánamo along with Petitioner El-Banna. See *id* at ¶ 24. Petitioners have been held in U.S. custody at Guantánamo since that time.
22. At the time of his detention, Petitioner Al-Rawi was not a member of either the Taliban government's armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his detention. Petitioner Al-Rawi was not in Afghanistan at the time of his detention. He was taken into custody in The Gambia, turned over to the custody of the U.S. Military there, transported illegally to Afghanistan, and thereafter illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.
23. On November 8, 2002, Petitioner El-Banna departed the United Kingdom for The Gambia in order to meet several business associates regarding the establishment of a peanut oil processing factory there. Accompanying him were Petitioner Al-Rawi and Abdullah El Janoudi, both of whom were involved in the same business project. Upon his arrival in Gambia, Petitioner El-Banna and his three business associates, including [REDACTED], who was present to meet them, were all detained by Gambian authorities. See [REDACTED] Affidavit, Exhibit C, at ¶ 4; Peirce El-Banna Affidavit, Exhibit D, at ¶ 5. After being detained for nearly a month, [REDACTED] and another business associate; both British citizens, were released; Petitioner El-Banna, however, remained in detention in The Gambia along with one of his business associates, Petitioner Al-Rawi. See Peirce El-Banna Affidavit, Exhibit D, at ¶ 5.
24. In early 2003, British Counsel for Petitioners El-Banna and Al-Rawi was advised that the detained Petitioners had been secretly transferred from The Gambia to the U.S. Air Force Base

in Bagram, Afghanistan. See Peirce El-Banna Affidavit, Exhibit D, at ¶ 23. Some time in 2003, Petitioner El-Banna's family was made aware that he had been transferred to Guantánamo. See [REDACTED] Affidavit, Exhibit C, at ¶ 4. Petitioner El-Banna has been held in U.S. custody at Guantánamo since that time. See Peirce El-Banna Affidavit, Exhibit D, at ¶ 24.

25. At the time of his detention, Petitioner El-Banna was not a member of either the Taliban government armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. El-Banna was not in Afghanistan at the time of his detention, but was taken into custody in The Gambia, turned over to the custody of the U.S. Military there, illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.

26. The Republic of Zambia is located in Africa and governed by a president and a unicameral national assembly. Zambia is a member of the British Commonwealth of Nations. Extradition from Zambia to the United States is controlled by the Extradition Treaty between the United States and the United Kingdom signed on December 22, 1931. Zambia and the United States are at peace.

27. In October 2000, Petitioner Mubanga left the United Kingdom to travel to Pakistan to visit friends and attend an Islamic school. While in Pakistan, Petitioner Mubanga lost his British passport. See [REDACTED] Affidavit, Exhibit E, at Attachment KM4, at ¶ 1, 2. In early 2002, Petitioner Mubanga traveled to Zambia, using his Zambian passport to visit his sister, [REDACTED]. See [REDACTED] Affidavit, Exhibit E, at ¶ 6, Attachment KM4, ¶ 2. While in Zambia, Petitioner Mubanga and his sister became aware of a news report that claimed that a person named "Martin Mubanga" had been captured in Afghanistan. They feared that someone was using Petitioner Mubanga's passport. See [REDACTED] Affidavit, Exhibit E at ¶ [REDACTED] at Attachment KM, ¶ 2. Shortly thereafter, Zambian officials seized and jailed both Petitioner Mubanga and his sister on false charges of motor vehicle theft. See [REDACTED] Affidavit, Exhibit E, at Attachment KM, ¶ 5. After holding [REDACTED] in custody for several weeks, Zambian authorities returned her to the United Kingdom. See [REDACTED] Affidavit,

Exhibit E, at Attachment KM, ¶ 7, 9. On information and belief, the Zambian government turned Mr. Mubanga over to the United States government without due process and in violation of the laws of Zambia including, but not limited to, the extradition treaty with the United States. On further information and belief, Mr. Mubanga was transported by the United States government to Guantánamo from Zambia against his will and without his consent. In April 2002, Petitioner Mubanga's family discovered that the United States was holding Petitioner Mubanga in Guantánamo. *See* Mubanga Affidavit, Exhibit E, at ¶ 4.

28. Petitioner Mubanga has never been a member of the Taliban government armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. Mubanga was not in Afghanistan at the time of his detention, but was taken into custody in Zambia, *see* [REDACTED] Affidavit, Exhibit E at ¶ 6, turned over to the custody of the U.S. Military there, *see* [REDACTED] Affidavit, Exhibit E at CM1, transferred to Afghanistan, *see* [REDACTED] Affidavit, Exhibit E at KM1, illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.

The Joint Resolution

29. Following the September 11, 2001 attacks on the United States, at the direction of President Bush, the United States began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized President Bush to use force against the "nations, organizations, or persons" that "planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons." Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001).

30. The detained Petitioners are not, and have never been, members of Al Qaeda or any other terrorist group. Prior to their detention, they did not commit any violent act against any American person or espouse any violent act against any American person or property. Nor were they involved in the ensuing armed conflict. They had no involvement, direct or indirect, in the terrorist attacks on the United States on September 11, 2001, or any act of international

terrorism attributed by the United States to Al Qaeda or any other terrorist group. They are not properly subject to the detention order issued by President Bush. Because they did not participate in the armed conflict at any point in time, they are not properly subject to President Bush's authority as Commander-in-Chief or under the laws and usages of war.

31. The detained Petitioners have had no military or terrorist training. They have never been affiliated with or members of any terrorist organization. They have never engaged in combat against American forces.
32. The detained Petitioners were not initially taken into custody by American forces. They were taken into custody against their will by Gambian and Zambian authorities and handed over to the Americans.
33. The detained Petitioners promptly identified themselves by their correct names and nationality to the United States. They requested that the United States provide them with access to their families and to legal counsel. The detained Petitioners were kept blindfolded against their will for lengthy periods while being transported involuntarily and illegally first to Afghanistan and then to Guantánamo. The detained Petitioners believe they were transported to Guantánamo through American territory.

The Detention Order

34. On November 13, 2001, President Bush issued a Military Order authorizing Respondent Rumsfeld to detain indefinitely anyone President Bush has "reason to believe":
 - i. is or was a member of the organization known as al Qaeda;
 - ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
 - iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Military Order of November 13, 2001. President Bush must make this determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope

of the Joint Resolution of September 18, 2001.

35. The Military Order vests President Bush with complete discretion to identify individuals who fall within its purview. It establishes no standards governing the exercise of his discretion. Once a person has been detained, the Order contains no provision for that person to be notified of the charges he may face. The Order authorizes detainees to be held without charges. It contains no provision for a detainee to be notified of his rights under domestic and international law, and provides neither the right to counsel, nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and no provision for appeal to an Article III court. In fact, the Order expressly bars review by any court. The Order authorizes indefinite and unreviewable detention, based on nothing more than the President Bush's written determination that an individual is subject to its terms.
36. The Military Order was promulgated in the United States and in this judicial district, the decision to incarcerate the detained Petitioners was made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.
37. President Bush has never certified or determined in any manner, in writing or otherwise, that the detained Petitioners are subject to the Military Order.
38. The detained Petitioners are not properly subject to the Military Order.
39. The petitioners are not lawfully detained pursuant to President Bush's authority as Commander-in-Chief or under the laws and usages of war. The detained Petitioners were not arrested or detained by the United States in the course of an armed conflict.
40. The detained Petitioners El-Banna and Al-Rawi were arrested in The Gambia and detained by Gambian authorities, not by United States authorities. They were not arrested in Afghanistan and were taken there illegally and against their will while a *habeas corpus* petition was pending in the United Kingdom. The detained Petitioner Mubanga was arrested in Zambia and detained by Zambian authorities, not by the United States. Accordingly, the detained Petitioners are not

properly detained under the President Bush's authority as Commander-in-Chief or under the laws and usages of war.

Guantánamo Bay Naval Station

41. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray at the United States Naval Base in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights. Detainees incarcerated at Guantánamo are entitled to test the legality of their detention in the federal courts. *Rasul v. Bush*, 542 U.S. ___, (June 28, 2004).
42. In or about early 2002 and in the spring of 2003, the precise dates being unknown to counsel but known to Respondents, the United States military transferred the detained Petitioners to Guantánamo, where they have been held ever since, in the custody of President Bush and Respondents Rumsfeld, Hood, and Cannon.

The Conditions of Detention at Guantánamo

43. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. On information and belief, they have been or will be interrogated repeatedly by agents of the United States Departments of Defense and Justice, and the Central Intelligence Agency, though they have not been charged with an offense, nor have they been notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, nor have they been provided counsel or the means to contact counsel. They have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, Respondents have taken the position that the detained Petitioners should not be informed of these rights. As a result, the detained Petitioners lack any ability to protect or to vindicate their rights under domestic and

Exhibit E, at Attachment KM, ¶ 7, 9. On information and belief, the Zambian government turned Mr. Mubanga over to the United States government without due process and in violation of the laws of Zambia including, but not limited to, the extradition treaty with the United States. On further information and belief, Mr. Mubanga was transported by the United States government to Guantánamo from Zambia against his will and without his consent. In April 2002, Petitioner Mubanga's family discovered that the United States was holding Petitioner Mubanga in Guantánamo. See Mubanga Affidavit, Exhibit E, at ¶ 4.

28. Petitioner Mubanga has never been a member of the Taliban government armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. Mubanga was not in Afghanistan at the time of his detention, but was taken into custody in Zambia, see [REDACTED] Affidavit, Exhibit E at ¶ 6, turned over to the custody of the U.S. Military there, see [REDACTED] Affidavit, Exhibit E at CM1, transferred to Afghanistan, see [REDACTED] Affidavit, Exhibit E at KM1, illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.

The Joint Resolution

29. Following the September 11, 2001 attacks on the United States, at the direction of President Bush, the United States began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized President Bush to use force against the "nations, organizations, or persons" that "planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons." Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001).
30. The detained Petitioners are not, and have never been, members of Al Qaeda or any other terrorist group. Prior to their detention, they did not commit any violent act against any American person or espouse any violent act against any American person or property. Nor were they involved in the ensuing armed conflict. They had no involvement, direct or indirect, in the terrorist attacks on the United States on September 11, 2001, or any act of international

terrorism attributed by the United States to Al Qaeda or any other terrorist group. They are not properly subject to the detention order issued by President Bush. Because they did not participate in the armed conflict at any point in time, they are not properly subject to President Bush's authority as Commander-in-Chief or under the laws and usages of war.

31. The detained Petitioners have had no military or terrorist training. They have never been affiliated with or members of any terrorist organization. They have never engaged in combat against American forces.
32. The detained Petitioners were not initially taken into custody by American forces. They were taken into custody against their will by Gambian and Zambian authorities and handed over to the Americans.
33. The detained Petitioners promptly identified themselves by their correct names and nationality to the United States. They requested that the United States provide them with access to their families and to legal counsel. The detained Petitioners were kept blindfolded against their will for lengthy periods while being transported involuntarily and illegally first to Afghanistan and then to Guantánamo. The detained Petitioners believe they were transported to Guantánamo through American territory.

The Detention Order

34. On November 13, 2001, President Bush issued a Military Order authorizing Respondent Rumsfeld to detain indefinitely anyone President Bush has "reason to believe":
 - i. is or was a member of the organization known as al Qaeda;
 - ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
 - iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Military Order of November 13, 2001. President Bush must make this determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope

of the Joint Resolution of September 18, 2001.

35. The Military Order vests President Bush with complete discretion to identify individuals who fall within its purview. It establishes no standards governing the exercise of his discretion. Once a person has been detained, the Order contains no provision for that person to be notified of the charges he may face. The Order authorizes detainees to be held without charges. It contains no provision for a detainee to be notified of his rights under domestic and international law, and provides neither the right to counsel, nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and no provision for appeal to an Article III court. In fact, the Order expressly bars review by any court. The Order authorizes indefinite and unreviewable detention, based on nothing more than the President Bush's written determination that an individual is subject to its terms.
36. The Military Order was promulgated in the United States and in this judicial district, the decision to incarcerate the detained Petitioners was made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.
37. President Bush has never certified or determined in any manner, in writing or otherwise, that the detained Petitioners are subject to the Military Order.
38. The detained Petitioners are not properly subject to the Military Order.
39. The petitioners are not lawfully detained pursuant to President Bush's authority as Commander-in-Chief or under the laws and usages of war. The detained Petitioners were not arrested or detained by the United States in the course of an armed conflict.
40. The detained Petitioners El-Banna and Al-Rawi were arrested in The Gambia and detained by Gambian authorities, not by United States authorities. They were not arrested in Afghanistan and were taken there illegally and against their will while a *habeas corpus* petition was pending in the United Kingdom. The detained Petitioner Mubanga was arrested in Zambia and detained by Zambian authorities, not by the United States. Accordingly, the detained Petitioners are not

properly detained under the President Bush's authority as Commander-in-Chief or under the laws and usages of war.

Guantánamo Bay Naval Station

41. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray at the United States Naval Base in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights. Detainees incarcerated at Guantánamo are entitled to test the legality of their detention in the federal courts. *Rasul v. Bush*, 542 U.S. ___, (June 28, 2004).
42. In or about early 2002 and in the spring of 2003, the precise dates being unknown to counsel but known to Respondents, the United States military transferred the detained Petitioners to Guantánamo, where they have been held ever since, in the custody of President Bush and Respondents Rumsfeld, Hood, and Cannon.

The Conditions of Detention at Guantánamo

43. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. On information and belief, they have been or will be interrogated repeatedly by agents of the United States Departments of Defense and Justice, and the Central Intelligence Agency, though they have not been charged with an offense, nor have they been notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, nor have they been provided counsel or the means to contact counsel. They have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, Respondents have taken the position that the detained Petitioners should not be informed of these rights. As a result, the detained Petitioners lack any ability to protect or to vindicate their rights under domestic and

international law.

44. On information and belief, the detained Petitioners have been forced to provide involuntary statements to Respondents' agents at Guantánamo. The detained Petitioners have been held under conditions that violate their international and constitutional rights to dignity and freedom from cruel, unusual and degrading treatment or punishment. They have been housed throughout their detention in a manner that fails to satisfy both domestic and internationally accepted standards of accommodations for any person subject to detention. They were initially forced to use a bucket for a toilet, and were not provided with basic hygienic facilities. They have been denied any meaningful access to their families. They have not been provided with the opportunity to exercise fully their religious beliefs. They have been exposed to the indignity and humiliation of the cameras of the national and international press, which were brought to Guantánamo with the express consent and control of Respondents.

45. In published statements, President Bush and Respondent Rumsfeld, Brigadier Gen. Michael Lehnert and Col. Terry Carrico, both of whom preceded Respondents Hood and Cannon in their respective positions, have proclaimed that the United States may hold the detained Petitioners under these conditions indefinitely. *See, e.g.,* Roland Watson, *THE TIMES (LONDON)*, Jan. 18, 2002 ("Donald Rumsfeld, the U.S. Defense Secretary, suggested last night that al-Qaeda prisoners could be held indefinitely at the base. He said that the detention of some would be open-ended as the United States tried to build a case against them."); Lynne Sladky, *ASSOC. PRESS*, Jan. 22, 2002 ("Marine Brig. Gen. Mike Lehnert, who is in charge of the detention mission, defended the temporary cells where detainees are being held... 'We have to look at Camp X-ray as a work in progress . . .' Lehnert told CNN. Lehnert said plans are to build a more permanent prison 'exactly in accordance with federal prison standards'"); John Mintz, *The WASH. Post*, *Extended Detention In Cuba Mulled*, Feb. 13, 2002 ("As the Bush administration nears completion of new rules for conducting military trials of foreign detainees, U.S. officials say they envision the naval base at Guantánamo Bay, Cuba, as a site for the tribunals and as a terrorist penal colony for many years to come.")¹

¹ *See also* TIME MAG., *Welcome to Camp X-Ray*, Feb. 3, 2002:

46. [REDACTED]

IV
CAUSES OF ACTION

FIRST CLAIM FOR RELIEF
(DUE PROCESS – FIFTH AMENDMENT
TO THE CONSTITUTION OF THE UNITED STATES
UNLAWFUL DEPRIVATION OF LIBERTY)

- 47. Petitioners incorporate paragraphs 1 - 46 by reference.
- 48. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the Constitution of the United States. President Bush has ordered the prolonged, indefinite, and arbitrary detention of individuals, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the President's direction. On its face, the Executive Order violates the Fifth Amendment.

SECOND CLAIM FOR RELIEF
(DUE PROCESS – FIFTH AMENDMENT
TO THE CONSTITUTION OF THE UNITED STATES
UNLAWFUL CONDITIONS OF CONFINEMENT)

- 49. Petitioners incorporate paragraphs 1 - 48 by reference.
- 50. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the Constitution of the United States. The President's Military Order, as applied to Petitioners,

More curious still is the matter of the prisoners' ultimate fate. Rumsfeld has laid out four options: a military trial, a trial in U.S. criminal courts, return to their home countries for prosecution, or continued detention "while additional intelligence is gathered." The last seems a distinct possibility: the Pentagon plans to build 2,000 cells at Camp X-Ray.

violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL DEPRIVATION OF LIBERTY)

51. Petitioners expressly incorporate paragraphs 1 - 50 by reference.
52. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXV, XXVI, XXVIII of the American Declaration on the Rights and Duties of Man. President Bush has ordered the prolonged, indefinite, and arbitrary detention of Petitioners, without legal process, in violation of binding obligations of the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the President's Military Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL CONDITIONS OF CONFINEMENT)

53. Petitioners incorporate paragraphs 1 - 52 by reference.
54. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXV, XXVI, and XXVIII of the American Declaration on the Rights and Duties of Man. The President's Military Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT – TORTURE)

55. Petitioners incorporate paragraphs 1 - 54 by reference.
56. The acts described herein were inflicted deliberately and intentionally for purposes of punishing and intimidating the detained Petitioners.

57. The acts described herein constitute torture in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting torture as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
58. Respondents are liable for said conduct because they directed, ordered, confirmed, ratified, and/or conspired together and with others to commit the acts of torture against the detained Petitioners.
59. Petitioners were forced to suffer severe physical and psychological abuse and agony and are entitled to monetary damages and other relief to be determined at trial.

SIXTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT - CRUEL, INHUMAN OR DEGRADING TREATMENT)

60. Petitioners incorporate paragraphs 1 - 59 by reference.
61. The acts described herein had the intent and the effect of grossly humiliating and debasing the detained Petitioners, forcing them to act against their will and conscience, inciting fear and anguish, and breaking their physical or moral resistance.
62. The acts described herein constitute cruel, inhuman or degrading treatment in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting cruel, inhuman or degrading treatment as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
63. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to cause the cruel, inhuman or degrading treatment of the detained Petitioners.
64. Petitioners were forced to suffer severe physical and psychological abuse and agony and are entitled to monetary damages and other relief to be determined at trial.

SEVENTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT - ARBITRARY ARREST AND DETENTION)

65. Petitioners incorporate paragraphs 1 - 64 by reference.

66. The acts described herein constitute arbitrary arrest and detention of Petitioners in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
67. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to bring about the arbitrary arrest detention of the detained Petitioners.
68. As result of Respondents' unlawful conduct, the detained Petitioners were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse, and are entitled to monetary damages and other relief to be determined at trial.

EIGHTH CLAIM FOR RELIEF
(DUE PROCESS – FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

69. Petitioners incorporate paragraphs 1 - 68 by reference.
70. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

NINTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

71. Petitioners incorporate paragraphs 1 - 70 by reference.
72. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the detained Petitioners without Congressional authorization.

TENTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

73. Petitioners incorporate paragraphs 1 - 72 by reference.
74. To the extent the Executive Order of November 13, 2001, disallows any challenge to the legality of the Petitioners' detention by way of *habeas corpus*, the Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution.

ELEVENTH CLAIM FOR RELIEF
(ARBITRARY AND UNLAWFUL DETENTION - VIOLATION OF THE APA)

75. Petitioners incorporate paragraphs 1 - 74 by reference.
76. By detaining Petitioners for the duration and in the manner described herein, Respondents have arbitrarily, unlawfully, and unconstitutionally detained the Petitioners, in violation of the Administrative Procedures Act, 5 U.S.C. § 706(2).

V.
PRAYER FOR RELIEF

WHEREFORE, petitioners pray for relief as follows:

1. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Bisher Al-Rawi;
2. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Jamil El-Banna;
3. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Martin Mubanga;
4. Order the detained Petitioners released from Respondents' unlawful custody;
5. Order Respondents to allow counsel to meet and confer with the detained Petitioners, in private and unmonitored attorney-client conversations;
6. Order Respondents to cease all interrogations of the detained Petitioners, direct or indirect, while this litigation is pending;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
8. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the

Administrative Procedures Act, 5 U.S.C. § 702;

9. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
10. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
11. Order and declare that the provision of the Executive Order that bars the detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution;
12. Order and declare that the prolonged, indefinite, and restrictive detention of Petitioners is arbitrary and unlawful, a deprivation of liberty without due process in violation of the Fifth Amendment to the United States Constitution, and in violation of the law of nations and treaties of the United States;
13. Order and declare that the detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
14. Order and declare that the detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
15. Order and declare that the detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
16. To the extent Respondents contest any material factual allegations in this Petition, schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
17. Grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the United States Constitution, federal statutory law, and international law.

Dated: July 8, 2004

Respectfully submitted,

Counsel for Petitioners:

/s/
George Brent Mickum IV, Bar No. 396142
Douglas J. Behr, Bar No. 163998
KELLER AND HECKMAN LLP
1001 G Street, N.W., Ste. 500W
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(202) 434-4245
(202) 434-4646 (fax)

Barbara Olshansky, to be admitted *pro hac vice*
Jeffrey E. Fogel, to be admitted *pro hac vice*
Michael Ratner, to be admitted *pro hac vice*
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, New York 10012
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Fax: (212) 614-6499

Joseph Margulies, to be admitted *pro hac vice*
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2520 Parke Avenue South
Minneapolis, MN 55404
Tel: (612) 872-4900
Tel: (612) 872-4967

Counsel for Petitioners

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 8th day of July, 2004.


 /s/
George Brent Mickum IV

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IN THE
SUPREME COURT OF THE UNITED STATES

BISHER AL-RAWI,


As Next Friend Of
BISHER AL-RAWI

Petitioners,

v.

GEORGE WALKER BUSH,
President of the United States

DONALD RUMSFELD,
Secretary United States
Department of Defense



MAJ. GEN. GEOFFERY MILLER,
Commander, Joint Task
Force - GIMO
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba


ARMY COL. NILSON J. CANNON,
Commander, Camp Delta
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

Defendants.

No. _____

AFFIDAVIT OF 

I, , of , U.K., being duly
sworn, depose and say that I am acting as next friend on behalf of the petitioner, my son, in the
above entitled case.


EXHIBIT A

22 OF 42

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1. I am a British citizen; my husband, the father of Bisher, died in 1992. I live in the United Kingdom at the above address, and also spend some time in Jordan where my mother live. My mother is sick and I have had to spend a percentage of each year looking after her and my young niece. I am ordinarily permanently resident in the United Kingdom as is my daughter, my son [redacted] and as was my son Bisher al-Rawi until his unlawful detention in Gambia in November of 2002, since which time I have not seen him. Bisher arrived in the United Kingdom from Iraq, the country in which he was born, to start his higher education and has never been back to Iraq since.

2. My son [redacted] was born in 1965, and my son, Bisher, in 1967. I also have a daughter [redacted]. In our wider family we have numerous relatives all also permanently resident in the UK. All of my immediate family, save for my son Bisher, are British citizens.

3. My son Bisher is a highly educated and intelligent man. He completed his A-levels in the United Kingdom, and always excelled at athletics and practical skills. He is exceptionally good-humoured and kind, and is a gentle person. He loved Britain and British society, and regarded Britain as his home. He had an appreciation of the values and principles of justice that govern the country; as a family we believe his interpretation of these principles meant that he did not feel any pressure or need to naturalise as a British citizen. He felt comfortable in Britain as an Iraqi citizen, which in turn increased his respect for British society.

4. All of my family including my children were happy and well established in this country, and trying to make their way in the business world earning a living. My son Bisher was talented and was constantly at work on a number of inventions, some of which had the potential of success. It was

EXPLANATION

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because of his practical skills, that his brother [redacted] asked him to work with him in his project in a mobile processing plant for retrieving peanut oil in The Gambia. It was a plan of both to work there. My son [redacted] conducted research into the peanut trade in Gambia through their governmental departments responsible for agriculture, and appreciated that the peanut processing trade was an innovative and potentially profitable project. This was the largest project that my son [redacted] had been involved in and I am aware that it was of potentially considerable advantage to him to have a technically knowledgeable and skilled brother to work with him when the actual setting up of the project came to fruition as it was intended to do in November of 2002.

5. I and my family were shocked to learn that instead of successfully commencing the project, all were arrested and detained in Gambia. From the time of learning of this, I and my family took all steps possible to raise the question of their detention with the British authorities in London, and with the Gambian authorities through lawyers there. After one month, my son [redacted] returned to England. [redacted] as I have stated is a British citizen. My son Bisher did not return and I have not seen him since.

6. Lawyers instructed on my behalf requested help from the Foreign and Commonwealth Office and in turn they instructed the Centre for Constitutional Rights in the United States in February 2003 to take all appropriate actions for him. Considerable help has been provided to me by my Member of Parliament, Edward Davey. All requests to help my son Bisher have been refused on the basis that the British Government cannot offer diplomatic or consular assistance to non-nationals.

J. S. P. P.
→

[Handwritten signature]

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7. I am aware that my son instructed a solicitor, Gareth Peirce in England when he was wrongly detained in 2002. I believe that he would wish me to take all measures possible to take legal action on his behalf to achieve his release.

8. I know the facts deposed to herein to be true of my own knowledge, except where otherwise appears.

Sworn by the Deponent at _____ on this 12/11 day of March, 2004

[Redacted signature area]

Before me:

SYAD M. I. MALLAK

~~2004~~
ADVOCATE
SYAD MALLAK

IN THE
SUPREME COURT OF THE UNITED STATES

BISHER AL-RAWI,)

[REDACTED])

As Next Friend Of)
BISHER AL-RAWI)

Petitioners,)

v.)

No. _____)

GEORGE WALKER BUSH,)
President of the United States)

DONALD RUMSFELD,)
Secretary, United States)
Department of Defense)

MAJ. GEN. GEOFFERY MILLER,)
Commander, Joint Task)
Force - GTMO)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

Defendants.)

AFFIDAVIT OF SOLICITOR GARETH PEIRCE

I, GARETH PEIRCE, of 14 Inverness Street, London, United Kingdom, NW1 7HJ, being
duly sworn, depose and state as follows:

[REDACTED]

EXHIBIT B

24 of 42

1. I am a solicitor in England and I am a partner in the firm of Birnberg Peirce at the above address. I have been retained by the Second Petitioner, [REDACTED], to act on her behalf and also on behalf of her son, Bisher Al-Rawi, the First Petitioner, who is presently detained by the United States military at Camp Delta, Guantánamo Bay Naval Station, Cuba (Guantánamo).

2. I was retained by [REDACTED] in November 2002 to act on behalf of her family and on behalf of Bisher Al-Rawi. Annexed here too marked "GPI" is a copy of my designation as solicitor for the first and second petitioners in these proceedings.

3. I was instructed by the first petitioner himself in the United Kingdom on the 2nd of November 2002 when he was detained whilst leaving the United Kingdom en route to set up a business in Gambia. He was released from questioning on November 4th, 2002 when we were informed the reason for his detention had proved to be erroneous.

4. My knowledge of events thereafter is obtained primarily from the family of the first petitioner, and in particular from his brother Wahab.

5. Bisher Al-Rawi, the first petitioner, travelled, as he had intended, to the Gambia, to embark upon a business project in the process of being established in the Gambia by his brother [REDACTED] [REDACTED] that would process and market peanut oil. All appropriate registration had already been entered into with the Gambian authorities. Upon his arrival in the Gambia, he was detained by Gambian authorities, as were his two travelling companions, both colleagues also in the same business project. His brother, Mr [REDACTED] who had gone to the airport to meet them upon their arrival, was also detained. Mr Al-Rawi's family retained lawyers in the Gambia to contest their detention. After being detained for almost a month, the two British nationals were released. Bisher Al-Rawi and El-Banna however continued to be detained.

6. After his return to the United Kingdom [REDACTED] was able, for the first time, to communicate with his family and with lawyers and to describe what had taken place in the Gambia. He also made a statement to Amnesty International in London. He describes being detained at the Gambian National Intelligence Agency and within two hours, Americans in civilian clothes arriving who stated they were from the Embassy. All [REDACTED]'s requests to see the British High Commissioner (he being a British citizen) were ignored.

7. [REDACTED] states that he was questioned by two Gambians and two Americans, having been transferred in hoods and handcuffs to a specially constructed detention house in which doors and windows were boarded up. The detainees were prevented from communicating with each other. The Gambians, Mr [REDACTED] describes, were apologetic; the Americans applied considerable pressure in a number of ways.

8. I here quote from the statement of [REDACTED]: *"There were many other, bizarre features of the questions, and manner of questions that were put to me. Once, at 3 o'clock in the morning, I was ordered to face the wall with my hands in the air. 'Mr Lee' and his partner then entered the room and asked if he had secured us. I told him that, being an Iraqi, I had got used to such treatment. The other American told me that they could be 'just as tough as the Iraqis'. He also made references to setting the Gambians on us, while Mr Lee tried to give the impression that we were only safe because we were under 'American protection'. Mr Lee also made reference to Middle East countries where he claimed it was not unknown for detainees to be raped under questioning. I was also asked questions about my sexuality. Indeed the other American seemed to be preoccupied with questions of this nature. I had strange scenarios put to me by the Americans -*

about training camps in Gambia. Bisher, I was told, was to be the military trainer because he was the 'sporty one', which was a proposition I found very strange indeed.

9. *I tried to retain my humour and dignity throughout. I was also asked by the Americans whether I was working for the British Secret Services.*

10. [REDACTED] *has described being aware that Jamal El-Banna was ill-treated. "I was told by the Americans that Bisher was not being submissive and that Mr Al-Banna had been in a fight with the guards. I was not informed by the Americans or the British authorities that my brother or Mr Al-Banna been taken to Afghanistan. We have not received any acknowledgement from the American authorities that they are detaining Bisher."*

11. *I am reliably informed and believe that neither extradition nor deportation proceedings took place in relation to Bisher Al-Rawi in Gambia thereafter. Instead, it is my understanding that he was moved without any legal process by the United States to Bagram Air Base in Afghanistan.*

12. *On the 31st of January 2002, upon becoming aware of this information, I wrote to the British Foreign Secretary asking for intervention on his behalf.*

13. *I attach at "GP2" a copy of the Foreign Office response dated 28th February 2003 in which it declines to provide any consular or diplomatic assistance to Mr Al-Rawi, since he is an Iraqi national. Mr Al-Rawi and his family have all permanently resided in the United Kingdom for approximately two decades. The remainder of Mr Al-Rawi's family are British citizens. The Foreign Office minister who responded, Baroness Amos stated:*

14. *'Under international law and practice we cannot act in a consular or diplomatic role on behalf of the men who are still detained without the consent of the countries of which they are citizens and the country detaining them. The purpose of consular protection is to allow a state to*

protect its own nationals when they are travelling in a second country. The primary responsibility for the two men's detention and welfare lies with the country that holds them and the country of their nationality.

15. *Although you refer to both men having 'long residence' in the United Kingdom, this is not a substitute for nationality. Neither have made the decision to seek British nationality. Therefore we cannot provide consular or diplomatic assistance.*

16. [Re Bisher Al-Rawi] *I understand he is an Iraqi national with indefinite leave to remain in this country. If he was travelling on Iraqi documentation, then clearly it is the role of the Iraqi authorities to provide assistance either directly, or through a country which they have indicated they wish to represent their interests. Alternatively, if he was travelling on refugee documents, the UNCR may be able to help.*

17. [REDACTED] *Since that time, and in the absence of any government in Iraq (a country from which Mr Al-Rawi and all his family had fled as refugees two decades before) there continues to be no country willing or able to exert any diplomatic pressure or assistance on Mr Al-Rawi's behalf.*

18. *Reports of treatment in Bagram Airbase have been made by a number of reputable and responsible newspapers including the New York Times, the Washington Post and the Independent newspaper in Britain. Robert Fisk, an experienced journalist writing in the Independent newspaper on August 8th 2002, wrote about Bagram Airbase:*

19. *The Americans will give no information about prisoners or the reasons for their detention. They will not say whether their interrogators are [REDACTED]*

[REDACTED]

or when they intend to release their captives. Indeed, the Americans will not even confirm that prisoners have been seized [REDACTED] and taken across the Afghan border.'

20. Again on the 14th August 2002, Robert Fisk continued to report about Bagram Prison:

21. [REDACTED]
[REDACTED]
[REDACTED]

22. Reports in the Washington Post of December 26th, 2002, and the New York Times of March 4th, 2002 report upon prisoners at Bagram Air Base being [REDACTED]

[REDACTED]
[REDACTED]

23. Some time in early January 2003 Amnesty International received information indicating that Mr Al-Rawi and his colleague Mr El-Banna were being secretly transferred to the Bagram Air Base in Afghanistan. No extradition or deportation proceedings took place in Gambia. Amnesty International was unable to confirm the exact date of transfer as all Gambian and United States officials they contacted refused to confirm the whereabouts to the two men. Their transfer to Bagram took place before they were allowed to consult with a lawyer, before any independent review of the evidence against them and despite the fact that a habeas corpus petition on their behalf was pending in the Courts.

24. Thereafter, again at a date unknown, the family were made aware that Mr Al-Rawi and Mr El-Banna had both been transferred to detention in Guantanamo Bay. On behalf of the family of Bisher Al-Rawi I instructed the Centre for Constitutional Rights in the United States to initiate all such legal action on his behalf as they considered appropriate (I had already in 2002 instructed the

Centre for Constitutional Rights in similar terms to initiate habeas corpus proceedings on behalf of

[REDACTED]
[REDACTED]. The Centre for Constitutional Rights petitioned the Inter-American Commission on Human Rights for the Organisation of American States on March 4th, 2003 on behalf of [REDACTED] and others.

25. I have since that time continued to press the Foreign Office in England to intervene on behalf of Mr Al-Rawi and to achieve for him compliance with international law. Mr Al-Rawi's member of parliament, Edward Davey, has continuously raised the issue of his situation with the Foreign Office. I produce one reply to Mr Davey, dated the 30th of October 2003 which echoes the continuing response of the Foreign Office in relation to him. "GP3"

26. Baroness Symons indicated to Edward Davey, *"I acknowledge there is now no Government of Iraq from which we could seek consent to represent Mr Al-Rawi. However, there are other factors to take into consideration. To extend our consular assistance to individuals who are resident in the UK, but who do not hold British nationality, would entail a change in policy. The number of people who would fall into this category would be large and the Foreign and Commonwealth Office does not have the resources to provide them with such assistance... we are however approaching the International Committee for the Red Cross on an informal basis to see if they have any information about Mr Al-Rawi which they can pass on to his family."* I exhibit that reply.

27. I know the facts deposed to herein to be true of my own knowledge, except where otherwise appears.

Sworn by the Deponent at ~~OSBORNE SOLICITORS~~ on this 7 day of March, 2004

68 PARKWAY
LONDON
NW1 7AH
020 7455 0511

Before me:

Cliff

Gary Peir

IN THE
SUPREME COURT OF THE UNITED STATES

Bisher AL-RAWI,)

[REDACTED])

as Next Friend of)
Bisher AL-RAWI)

Petitioners)

v.)

No. _____

GEORGE WALKER BUSH,)
President of the United States)

DONALD RUMSFELD,)
Secretary, United States)
Department of Defense)

MAJ. GEN. GEOFFERY MILLER,)
Commander, Joint Task)
Force - 160)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

Defendants.)

EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS

EXHIBITS TO AFFIDAVIT OF SOLICITOR GARETH PEIRCE

- A. GP1: Copy of designation as solicitor for the first and second petitioners in these proceedings.
- B. GP2: Copy of letter sent by the FOREIGN OFFICE to Birnberg Peirce & Partners. (February 28th. 2003)
- C. GP3: Copy of letter sent by the FOREIGN OFFICE to Edward DAVEY, member of parliament. (October 30th. 2003)



OSBURNES SOLICITORS
68 PARKWAY
LONDON
NW1 7AH
020 7465 8811

34 2842

EXHIBIT GP1

350424228

GREAT BRITAIN

AUTHORISATION

COMES NOW,  being duly sworn, and deposes and states as follows:

1. I am related to Bisher Al-Rawi. He is my son. I love him and want only what is in his best interests.
2. It is my understanding that he is not allowed access to a lawyer or to the courts of the United States.
3. I wish to act as his "next friend" and I hereby request and authorise Gareth Peirce, solicitor, and Daniel Guedalla, solicitor, at Birnberg Peirce and Partners solicitors, 14 Inverness Street, London NW1 7HJ, United Kingdom, and in the United States I retain and authorise Clive A. Stafford Smith, and his associates, to act on behalf of Bisher Al-Rawi and take whatever legal steps that they consider to be in his best interests.

Sworn to this 3 day of March 2004



Witnessed: ADVOCATE - Y.A.P.M. J. MATHOU

ADVOCATE
Y.A.P.M. J. MATHOU

EXHIBIT GP2

3706424230

RECEIVED 05 MAR 2003



Foreign & Commonwealth Office

London SW1A 2AH

From The Parliamentary Under Secretary of State

Your ref: GP/jp
Our ref: 158721/03

28 February 2003

Bimberg Peirce and Partners
14 Inverness Street
London
NW1 7HI

Dear Sir,

Thank you for your letter of 31 January to Jack Straw about Jamil El-Banna and Bisher Al-Rawi, who are detained in Afghanistan having originally been detained in The Gambia. I am replying as Minister responsible for consular matters.

Contrary to the information you have been given, I would like to assure you that the British Government did not request the detention of the group in The Gambia. The British Government has played no role in any transfer to Bagram.

Once we became aware of the arrest of British nationals in The Gambia we made a number of representations to the local authorities. We sought immediate consular access and information on the reasons why the men had been detained. These were repeated at a senior level, including by our High Commissioner personally. As you know, Abdallah El-Janoudi and [redacted] were subsequently released.

However, the two remaining men are not British nationals. Under international law and practice we cannot act in a consular or diplomatic role on behalf of the men who are still detained without the consent of the countries of which they are citizens and the country detaining them. The purpose of consular protection is to allow a state to protect its own nationals when they are travelling in a second country. The primary responsibility for the two mens' detention and welfare lies with the country that holds them and the country of their nationality.

Although you refer to both men having 'long residence' in the United Kingdom, this is not a substitute for nationality. Neither have made the decision to seek British nationality. Therefore, we cannot provide consular or diplomatic assistance.

I understand that Mr El-Banna is a refugee. Refugee status does not give the country of residence the right to provide consular or diplomatic assistance. However, the United Nations High Commission for Refugees (UNHCR) is entitled to provide assistance.

Your letter does not make clear Bisher Al-Rawi's precise status, although I understand he is an Iraqi national with indefinite leave to remain in this country. If he



was travelling on Iraqi documentation, then clearly it is the role of the Iraqi authorities to provide assistance either directly, or through a country which they have indicated they wish to represent their interests. Alternatively, if he was travelling on refugee documents, the UNHCR may be able to help.

I note your comments about the treatment that Mr [REDACTED] claims to have received while he was in detention. Staff in our Consular Division in London are in contact with Mr [REDACTED].

If you wish to discuss this matter further, please do not hesitate to contact John Culley in our Consular Division on 020 7008 0143.

*Yours sincerely,
Baroness Amos*

BARONESS AMOS

EXHIBIT GP3



Foreign &
Commonwealth
Office

30 October 2003

London SW1A 2AH

Mark Jennings
C/o Edward Davey Esq MP
21 Berrylands Road
Surbiton
KT5 8QX

From The Minister of State

Dear Mark Jennings,

In the recent meeting with the Muslim Parliament of Great Britain, you mentioned correspondence between Baroness Amos and Edward Davey MP about Bisher al-Rawi, who is detained at Guantanamo Bay.

Mr Davey wrote to the Prime Minister on 13 and 14 July to follow-up on previous correspondence on this issue. Bill Rammell replied as Foreign and Commonwealth Office (FCO) Duty Minister on 13 August. As explained in that letter, neither Mr al-Rawi, nor his friend Mr al-Banna, are British nationals and we are therefore not in a position to provide them with consular or diplomatic assistance or protection.

Furthermore, although Mr al-Rawi is an Iraqi national, the UK government is not in a position to seek to make representations on his behalf. The fact that the UK is an Occupying Power in Iraq does not mean that the UK has any right, as a matter of law, to exercise consular or diplomatic functions on behalf of Iraqi nationals.

At our meeting you pointed out a sentence in a letter dated 5 February from Baroness Amos to Edward Davey MP, which says "Under international law, we cannot assume protection for another country's nationals without the consent of both the countries concerned." At the time that letter was written, there was an Iraqi Government and we would not have been able to represent Mr al-Rawi without their consent.

I self-knowledge that there is now no "government of Iraq" from which we could seek consent to represent Mr al-Rawi. However, there are other factors to take into consideration. To extend our consular assistance to individuals who are resident in the UK, but who do not hold British nationality, would entail a change in policy. The number of people who would fall into this category would be large and the Foreign and Commonwealth Office does not have the resources to provide them with such assistance. Even if our assistance was restricted to those who had residency in the UK but did not have another government to represent them, we estimate that the numbers involved would still be significant.

I am sorry that I cannot give you a more helpful reply. I can assure you that this issue has been given a considerable amount of attention. However, the conclusion has been



reached that we are not in a position to extend our current level of consular and diplomatic assistance and protection to non-British nationals, whatever their circumstances. We are however approaching the International Committee for the Red Cross on an informal basis to see if they have any information about Mr el-Rawi which they can pass on to his family.

*Yours sincerely,
Elizabeth Symons*

BARONESS SYMONS

UNCLASSIFIED//FOUO

Personal Representative Review of the Record of Proceedings

I acknowledge that on 14 October 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

14 OCT 04
Date

[REDACTED]
Signature LCOR, USA

ISN # [REDACTED]
Enclosure (5)

UNCLASSIFIED//FOUO