



OFFICE OF THE SECRETARY OF DEFENSE
1640 DEFENSE PENTAGON
WASHINGTON, DC 20301-1640

LEGAL ADVISOR'S PRETRIAL RECOMMENDATION

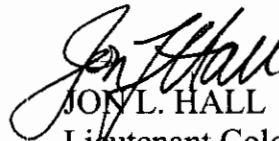
APPOINTING AUTHORITY FOR
MILITARY COMMISSIONS

June 28, 2004

FOR : Appointing Authority, Office of Military Commissions

SUBJECT: Review of Charge and Recommendation, U.S. v. ALI HAMZA AHMAD
SULAYMAN AL BAHLUL

- ACCUSED: Ali Hamza Ahmad Sulayman al Bahlul,
aka Ali Hamza Ahmed Suleiman al Bahlul, aka Abu Anas al Makki,
aka Abu Anas al Yemeni, aka Mohammad Anas Abdullah Khalidi
- CITIZENSHIP: Yemen
- DATE OF BIRTH: 1968 (approximately 36 years old)
- PRESIDENT'S DETERMINATION: On 3 July 2003, the President determined that
the Accused is subject to his Military Order of November 13, 2001.
- CHARGE: Conspiracy to attack civilians, to attack civilian objects, to commit
murder by an unprivileged belligerent, to destroy property by an unprivileged
belligerent, and to commit terrorism, in violation of the law of war.
- LEGAL CONCLUSIONS: After reviewing the attached charge and allied papers, I
have reached the following legal conclusions:
 - The charge alleges a violation of the law of war;
 - The charge is warranted by the evidence; and
 - A Military Commission, established pursuant to the President's Military Order of
November 13, 2001, and Military Commission Order No. 1, has jurisdiction over
the Accused and the charged offense.
- RECOMMENDATIONS:
 - I recommend approval of the charge and trial by Military Commission.


JON L. HALL

Lieutenant Colonel, U.S. Army Reserve
Deputy Legal Advisor
Office of Military Commissions

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No. 040003

UNITED STATES)

v.)

ALI HAMZA AHMAD SULAYMAN AL BAHLUL)

a/k/a Ali Hamza Ahmed Suleiman al Bahlul)

a/k/a Abu Anas al Makki)

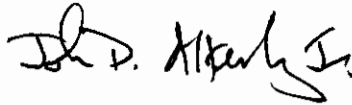
a/k/a Abu Anas Yemeni)

a/k/a Mohammad Anas Abdullah Khalidi)

**Approval of Charge
And Referral**

June 28, 2004

The charge against Ali Hamza Ahmad Sulayman al Bahlul (a/k/a Ali Hamza Ahmed Suleiman al Bahlul, a/k/a Abu Anas al Makki, a/k/a Abu Anas Yemeni, a/k/a Mohammad Anas Abdullah Khalidi) is approved and referred to the Military Commission identified at Encl 1. The Presiding Officer will notify me not later than July 15, 2004, of the initial trial schedule, including dates for submission and argument of motions, and a convening date.



John D. Altenburg, Jr.
Appointing Authority
for Military Commissions

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No. 040003

UNITED STATES)

v.)

ALI HAMZA AHMAD SULAYMAN AL BAHLUL)

a/k/a Ali Hamza Ahmed Suleiman al Bahlul)

a/k/a Abu Anas al Makki)

a/k/a Abu Anas Yemeni)

a/k/a Mohammad Anas Abdullah Khalidi)

**Military Commission
Members**

June 28, 2004

The following officers are appointed to serve as a Military Commission for the purpose trying any and all charges referred for trial in the above-styled case. The Military Commission will meet at such times and places as directed by the Appointing Authority or the Presiding Officer. Each member of the Military Commission will serve until relieved by proper authority.

In the event of incapacity, resignation, or removal of a member who has not been designated as the Presiding Officer, the alternate member is automatically appointed as a member.

Colonel Peter E. Brownback, III, USA (Retired), Presiding Officer

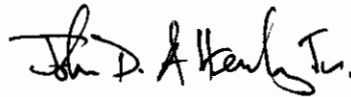
Colonel Jack K. Sparks, Jr., USMC, Member

Colonel R. Thomas Bright, USMC, Member

Colonel Christopher C. Bogdan, USAF, Member

Lieutenant Colonel Timothy K. Toomey, USAF, Member

Lieutenant Colonel Curt S. Cooper, USA, Alternate Member



John D. Altenburg, Jr.
Appointing Authority
for Military Commissions

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| | | |
|--|---|-------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | |
| |) | CHARGE: |
| ALI HAMZA AHMAD SULAYMAN AL BAHLUL |) | CONSPIRACY |
| a/k/a Ali Hamza Ahmed Suleiman al Bahlul |) | |
| a/k/a Abu Anas al Makki |) | |
| a/k/a Abu Anas al Yemeni |) | |
| a/k/a Mohammad Anas Abdullah Khalidi |) | |

Ali Hamza Ahmad Sulayman al Bahlul (a/k/a Ali Hamza Ahmed Suleiman al Bahlul, a/k/a Abu Anas al Makki, a/k/a Abu Anas al Yemeni, a/k/a Mohammad Anas Abdullah Khalidi) is a person subject to trial by Military Commission. At all times material to the charge:

JURISDICTION

1. Jurisdiction for this Military Commission is based on the President’s determination of July 3, 2003 that Ali Hamza Ahmad Sulayman al Bahlul (a/k/a Ali Hamza Ahmed Suleiman al Bahlul, a/k/a Abu Anas al Makki, a/k/a Abu Anas al Yemeni a/k/a Mohammad Anas Abdullah Khalidi, hereinafter “al Bahlul”) is subject to his Military Order of November 13, 2001.

2. Al Bahlul’s charged conduct is triable by a military commission.

GENERAL ALLEGATIONS

3. Al Qaida (“the Base”), was founded by Usama bin Laden and others in or about 1989 for the purpose of opposing certain governments and officials with force and violence.

4. Usama bin Laden is recognized as the *emir* (prince or leader) of al Qaida.

5. A purpose or goal of al Qaida, as stated by Usama bin Laden and other al Qaida leaders, is to support violent attacks against property and nationals (both military and civilian) of the United States and other countries for the purpose of, *inter alia*, forcing the United States to withdraw its forces from the Arabian Peninsula and in retaliation for U.S. support of Israel.

6. Al Qaida operations and activities are directed by a *shura* (consultation) council composed of committees, including: political committee; military committee; security committee; finance committee; media committee; and religious/legal committee.
7. Between 1989 and 2001, al Qaida established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries.
8. In August 1996, Usama bin Laden issued a public "*Declaration of Jihad Against the Americans*," in which he called for the murder of U.S. military personnel serving on the Arabian Peninsula.
9. In February of 1998, Usama bin Laden, Ayman al Zawahari and others under the banner of the "International Islamic Front for Jihad on the Jews and Crusaders," issued a *fatwa* (purported religious ruling) requiring all Muslims able to do so to kill Americans – whether civilian or military – anywhere they can be found and to "plunder their money."
10. On or about May 29, 1998, Usama bin Laden issued a statement entitled "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which he stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize enemies of God."
11. Since 1989, members and associates of al Qaida, known and unknown, have carried out numerous terrorist attacks, including, but not limited to: the attacks against the American Embassies in Kenya and Tanzania in August 1998; the attack against the USS COLE in October 2000; and the attacks on the United States on September 11, 2001.

CHARGE: CONSPIRACY

12. Ali Hamza Ahmad Sulayman Al Bahlul (a/k/a Ali Hamza Ahmed Suleiman al Bahlul, a/k/a Abu Anas al Makki, a/k/a Abu Anas al Yemeni, a/k/a Mohammad Anas Abdullah Khalidi, hereinafter "al Bahlul"), in Afghanistan, Pakistan, Yemen and other countries, from on or about February 1999 to on or about December 2001, willfully and knowingly joined an enterprise of persons who shared a common criminal purpose and conspired and agreed with Usama bin Laden, Saif al Adel, Dr. Ayman al Zawahari (a/k/a "the Doctor"), Muhammad Atef (a/k/a Abu Hafs al Masri), Salem Ahmed Salem Hamdan (a/k/a Saqr al Jadawi) and other members and associates of the al Qaida organization, known and unknown, to commit the following offenses triable by military commission: attacking civilians; attacking civilian

objects; murder by an unprivileged belligerent; destruction of property by an unprivileged belligerent; and terrorism.

13. In furtherance of this enterprise and conspiracy, al Bahlul and other members or associates of al Qaida committed the following overt acts:
- a. In 1999, with knowledge of Usama bin Laden's 1996 "*Declaration of Jihad Against the Americans*" and the 1998 fatwa endorsed by bin Laden calling for the "killing of Americans and their allies, both military and civilian," al Bahlul voluntarily traveled from Yemen to Afghanistan (via Pakistan) with the intent and purpose of joining and supporting Usama bin Laden in his expressed cause.
 - b. In 1999, upon arriving in Afghanistan, al Bahlul met Saif al Adel, the head of the al Qaida Security Committee.
 - c. Based upon arrangements made by Saif al Adel, al Bahlul participated in military training for two months at the al Qaida-sponsored Aynak camp in Afghanistan.
 - d. After completing his training at Aynak camp, al Bahlul met with and pledged *bayat* to Usama bin Laden. By pledging *bayat*, al Bahlul affirmed his willingness to perform any act requested by bin Laden and to protect bin Laden from all harm.
 - e. In late 1999, after completing his training at Aynak camp, al Bahlul lived at an al Qaida-sponsored guesthouse in Qandahar and performed duties in support of al Qaida.
 - f. From late 1999 through December 2001, al Bahlul was personally assigned by Usama bin Laden to work in the al Qaida media office. In this capacity, al Bahlul created several instructional and motivational recruiting video tapes on behalf of al Qaida.
 - g. Usama bin Laden personally tasked al Bahlul to create a video glorifying, among other things, the attack on the USS COLE. Al Bahlul created this "USS COLE" video to recruit, motivate and "awaken the Islamic Umma to revolt against America" and inspire al Qaida members and others to continue violent attacks against property and nationals (both military and civilian) of the United States and other countries.
 - h. After being placed on alert by Usama bin Laden in the weeks just before the attacks of September 11, 2001, al Bahlul assisted Usama bin Laden and other al Qaida members in mobilizing and moving from Qandahar.

- i. On September 11, 2001, Usama bin Laden tasked al Bahlul to set up a satellite connection so that bin Laden and other al Qaida members could see news reports. Despite his efforts, al Bahlul was unable to obtain a satellite connection because of mountainous terrain.
- j. In the weeks immediately following the attacks of September 11, 2001, Usama bin Laden tasked al Bahlul to obtain media reports concerning the September 11th attacks and to gather data concerning the economic damage caused by these attacks.
- k. In 2001, al Bahlul served as a bodyguard and provided protection for Usama bin Laden. While traveling with Usama bin Laden, al Bahlul was armed and wore an explosives-laden belt so that he could provide Usama bin Laden with physical security and protection.