

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FOUZI KHALID ABDULLAH AL AWDA,)
et al.)
Petitioners,)
v.) Civil Action No. 02-CV-0828 (CKK)
UNITED STATES, *et al.*,)
Respondents.)
_____)

DECLARATION OF JAMES R. CRISFIELD JR.

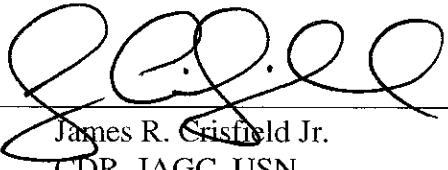
Pursuant to 28 U.S.C. § 1746, I, Commander James R. Crisfield Jr., Judge Advocate General's Corps, United States Navy, hereby state that to the best of my knowledge, information and belief, the following is true, accurate and correct:

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 Fouzi Khalid Abdullah Al Awda 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 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. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 7 Oct 04


James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

3 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".

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
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2 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 2004Encl: (1) Appointing Order for Tribunal #4 of 6 August 2004
(2) LCol [REDACTED] email of 2 Oct 04
(3) Record of Tribunal Proceedings

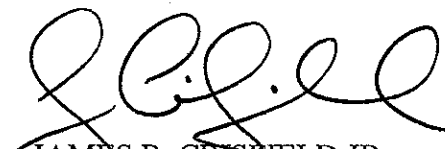
1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-2 and R-3 was redacted. The FBI properly certified in exhibit R-15 that the redacted information would not support a determination that the detainee is not an enemy combatant. Furthermore, the Tribunal, on its own accord, sought additional information in this matter. One of the documents it requested and subsequently reviewed by the Tribunal was classified TS/SCI. The Tribunal did not attach the document to their Decision Report in order to maintain its Secret classification. I also have not attached the document to this Record of Proceedings in order to maintain the record at a usable classification level. Enclosure (2) is an email, classified Secret, from Lieutenant Colonel [REDACTED] USMC, one of the Tribunal members, which states that the Initial Intelligence Report (IIR) attached to the Tribunal Decision Report as exhibit R-10 is substantively identical to the TS/SCI document requested and considered by the Tribunal. This substantive equality allows us to adequately review the information considered by the Tribunal in reaching their decision without maintaining the Record of Proceedings, or portions of the Record, inside a Sensitive Compartmented Information Facility (SCIF). If you desire, the original TS/SCI document can be made available for you to review inside a SCIF. Additional information requested by the Tribunal was attached to the Record of Proceedings by the Tribunal as exhibit R-16.

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

- d. The detainee made no requests for witnesses or other evidence.
 - e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
 - f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

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Department of Defense
Director, Combatant Status Review Tribunals

6 August 2004
Ser0038/ajs

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #4

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

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

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

MEMBERS:

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

[REDACTED], Commander, JAGC, U.S. Navy; Member (JAG)

[REDACTED], Lieutenant Colonel, U.S. Marine Corps; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
U.S. Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

21 September 2004


MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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


DAVID L. TAYLOR
Colonel, USAF

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #4

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #4 of 6 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

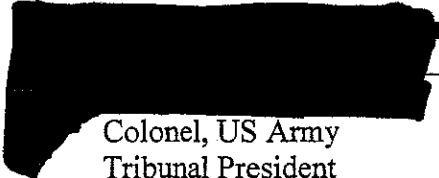
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) (U) Summary of Detainee Testimony (U//FOUO)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U//FOUO)

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 11 September 2004, the Tribunal determined, by a preponderance of the evidence, that Detainee # is designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee was a member of, or affiliated with, Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners, 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).


Colonel, US Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #4 _____
ISN #: _____

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 was part of or supporting Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. 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 Tribunal initially commenced on 28 August 2004. The unclassified evidence presented to the Tribunal by the Recorder in the form of the Summary of Evidence for Combatant Status Review Tribunal (Exhibit R-1) indicated: The detainee is associated with Al Qaida and the Taliban; in August or early September 2001, the detainee admitted to traveling through Afghanistan with Taliban members; the detainee admitted to firing an AK-47 at a training camp near Kandahar [Afghanistan]; the detainee admitted to staying at a guesthouse with fighters armed with AK-47 rifles; the detainee engaged in hostilities against the U.S. or its coalition partners; the detainee admitted to carrying an AK-47 through the Tora Bora mountains for ten (10) to eleven (11) days during the U.S. air campaign in that region; and the detainee was captured with five (5) other men by Pakistani border guards. The Recorder called no witnesses.

The detainee elected to participate in the Tribunal process. He communicated his desire to participate to his Personal Representative prior to the proceedings, and his decision was recorded on a Detainee Election Form dated 10 August 2004, which was signed by his Personal Representative. The detainee elected to testify under oath at the proceeding (Enclosure (3) to the CSRT Decision Report). In his oral statement, the detainee claimed, in sum, that the assertions in the Summary of Evidence for Combatant Status Review Tribunal (Exhibit R-1) are incorrect. After being reminded by the Tribunal President that he did not have to answer any questions, the detainee indicated he would answer questions. The detainee then proceeded to answer questions from the Personal Representative, the Recorder, and the Tribunal for a period of approximately fifteen (15) minutes. The detainee's answers were generally consistent with his statement and further explained why the detainee claimed the assertions in Exhibit R-1 were incorrect. The Personal Representative called no witnesses.

During the classified portion of the Tribunal, the Recorder presented Exhibits R-2 through R-14. After reading Exhibit R-12 (JTF GTMO Memorandum dated 31 January 2004), which referenced sensitive reporting information the Tribunal considered important to review prior to making its determination on the detainee's status, the Tribunal President directed the Recorder to produce the sensitive reporting information. As the requested information was not readily available, and some members associated with the proceeding did not have the appropriate clearance, the Tribunal President ordered a recess until all matters could satisfactorily be resolved.

On 11 September 2004, in the Joint Intelligence Group (JIG) Sensitive Compartmentalized Information Facility (SCIF), the Personal Representative, a substitute Recorder, and the Tribunal read the requested classified information (Exhibit R-16 and a TS/SCI document that can be retrieved by its classified subject line, which is specified in Enclosure (2) to the CSRT Decision Report). The Tribunal then reconvened to recap the classified document review on the record, admit Exhibit R-16, and formally close for deliberations.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

a. Exhibits: D-a through D-d, R-1 through R-16, and a TS/SCI document identified in Enclosure (2) to the CSRT Decision Report.

b. Testimony of the following persons: None.

c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1 and R-15 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 offers conclusory statements

without supporting unclassified evidence. Exhibit R-15, an FBI certification regarding redacted information, provided no usable evidence. Accordingly, the Tribunal had to look to the classified exhibits to support its conclusions.

b. Essentially, the only 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's sworn testimony claims the information in Exhibit R-1 is incorrect.

c. The Tribunal also considered Exhibit D-d, a USA Today article dated 19 April 2004, which describes the detainee's father's efforts to free his son. Although much of the article is not relevant to a determination of the detainee's status, the article notes the detainee contacted his parents shortly after the 11 September 2001 attacks and told them he was assisting refugees streaming from Afghanistan. The detainee did not mention this phone call or this activity during his testimony before the Tribunal. Instead, he explained he could not return to Kuwait right after the 11 September attacks because the Kuwaiti government would find his return suspicious. The Tribunal did not believe that explanation, and instead found his decision to remain in Afghanistan suspicious.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

The Tribunal consulted the CSRT Assistant Legal Advisor regarding how to conduct the review of sensitive reporting information in the JIG's SCIF. The Tribunal also swore in a substitute Recorder with a TS/SCI clearance to address the sensitive reporting information. The CSRT Assistant Legal Advisor provided guidance on the proper way of doing so.

7. Conclusions of the Tribunal

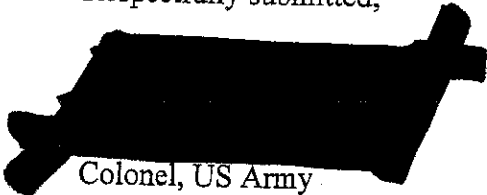
Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- 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 and actively participated in the Tribunal process.
- c. The detainee is properly classified as an enemy combatant because he was part of or supporting Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large black rectangular redaction box covers the signature of the Tribunal President.

Colonel, US Army
Tribunal President

Summarized Detainee Statement

Tribunal President: Fouzi Al Awda, you may now present any evidence you have to the Tribunal. You have the assistance of your personal representative in doing so. Do you want to present any information to this Tribunal?

Detainee: Yes, I would like to defend myself.

Tribunal President: Would you like for your statement to be under oath or not under oath?

Detainee: If you wish for me to swear, I will swear.

Tribunal President: It is strictly your choice. We have both a Muslim and non-Muslim oath. At this time I will ask the Personal Representative if, prior to this, did the Detainee indicate he wanted to be sworn or unsworn?

Personal Representative: The Detainee wishes to be sworn using the Muslim oath.

Tribunal President: Is that still the case?

Detainee: Yes.

Tribunal President: Okay then. Recorder, please administer the Muslim oath.

The Detainee was sworn by the Recorder. The Personal Representative hands a copy of the unclassified summary, translated in Arabic language, to the Detainee for reference during his testimony.

Detainee: I would like to start by telling you a little about my background first, then I will address the evidence.

Tribunal President: That is fine.

Detainee: I was raised in an educated family. Several members of my family, like my father and my uncles, have studied in the United States. I visited the United States when I was younger. I also visited the United States about a year before the September 11th attacks. My family has never had a problem with the United States, nor do I have anything against Americans. I have lived among Americans in my home country for about twelve years. I do not hold anything against U.S. troops. If I had any bad intentions against United States soldiers, I would have had a chance to do something in my home country because they were there. I graduated from college, Al Shari, after four years of study.

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Detainee: I worked after that for six months in a Government-ran charity house. I would visit people in need and write down what they needed. After that, I worked as a teacher in an Islamic school. The purpose of my telling you my background is to justify my reasons for going to Afghanistan. I went to Afghanistan to teach and to help other people. That is what I was doing before. The other thing is if I had any bad intention towards the United States, I have a visa to the United States that is good for ten years that I could have used if I had wanted to. The last thing: I traveled to Afghanistan before the events of September 11th. It was my bad luck and bad timing that these events happened while I was in Afghanistan. Shall I address each statement one by one as it is written in the unclassified summary?

Tribunal President: That is strictly your choice.

The Detainee proceeded to address each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).

3.a. Detainee is associated with Al Qaida and the Taliban.

1. In August or early September 2001, Detainee admits traveling through Afghanistan with Taliban members.

Regarding the first statement, traveling through Afghanistan with a member of the Taliban was necessary because that was the Government in Afghanistan at that time. I always had to have a Government liaison when I was traveling. With the help of the Taliban representative, I traveled through Afghanistan to meet the people I was trying to help, the people in need. That does not mean at all that I am affiliated with the Taliban or that I am an active member of the Taliban. For example, the ICRC could not move around in Afghanistan without a Government liaison with them at all times. That does not mean that the ICRC is a member of the Taliban.

2. Detainee admits firing an AK-47 at a training camp near Kandahar.

In regard to the second statement, it was not a training camp. It was just a place for learning for people age twelve to fourteen years old. It was being looked after or supervised by the Taliban. The reason I was there was to teach some lessons. I was only there from the morning until sunset. The only thing that was taught there was shooting or aiming at targets. That was the training that they had. In Afghanistan, shooting a Kalashnikov is just like throwing stones. It is very common. When I went through the training with the Kalashnikov, it was just out of my wanting to learn how to shoot a Kalashnikov. That cannot be called military training. For example, in the United States, there are many places you can go to learn how to shoot. That is not considered military training.

UNCLASSIFIED//FOUO

3. *Detainee admitted staying at a guesthouse with fighters armed with AK-47 rifles.*

Detainee: I was surprised to hear from the Captain that the guesthouse was run by Al Qaida. It does not say that here in my translated version. It does not mention Al Qaida.

Tribunal President: Can you read word for word what it says there in the version given to you?

Detainee: The Detainee admits staying at a guesthouse with individuals who were armed with weapons like the AK-47.

Tribunal President: Very similar to ours. Ours also does not say Taliban guesthouse.

Detainee: Maybe I heard wrong.

Tribunal President: That is okay. The important point is ours reads the same as yours.

Detainee: I did not stay in a guesthouse. I stayed in a house with a man, his wife, and kids. That was for a few days - maybe a week or less. After that, I went through the mountains to Pakistan. During my stay in that house, there were two other individuals that would visit occasionally. These individuals would come and go, but they were not staying there. Regarding the fact they were armed, every Afghan and every Arab was armed. It was neither a big deal nor anything out of the ordinary. Even in Yemen, it is the same way. When the conflict started, the owner of the house gave me a weapon to defend myself because the Afghans were going after the Arabs. They were robbing them. I had the weapon to defend myself against them. I was obligated to have the weapon. I did not have a choice. It was either be killed or defend myself. In summary, I did not carry the weapon to kill anyone; it was only to defend myself.

3.b. *Detainee engaged in hostilities against the US or its coalition partners.*

1. *Detainee admits to carrying an AK-47 through the Tora Bora mountains for ten to eleven days during the US air campaign in that region.*

I already said that in regard to the weapon, I had it to defend myself. About my being in the Tora Bora region, that was the only way to get from Jalalabad to Pakistan. I had to cross through that mountain area. I was not the only person in this area. There were many people there, families and others all headed to Pakistan. I am surprised to learn that carrying a weapon in that region was considered a hostile act. What can an AK-47 do against an American plane?

UNCLASSIFIED//FOUO

2. *Detainee was captured with five other men by Pakistani border guards.*

I was not captured by Pakistani forces. I surrendered. I turned myself in. I asked to be handed over to the Kuwaiti Embassy. If this case is about my being an enemy combatant, I had the weapon. I could have killed if I wanted to. But I did not. I turned myself in so I could be taken to the Kuwaiti embassy.

I would like to make two more statements to summarize or conclude what I have said. My first point is I do not know what is the nature of the classified evidence. There are some things I am accused of that I do not see in this summary. All I can say is, when a person is under arrest or in handcuffs, he can be under mental stress. He can say things he does not mean. Sometimes the only way when you are in a situation like this, you are forced or compelled to say something against others during the interrogation. Sometimes a person can talk about someone else or accuse a person of doing something they did not do just so they can get out of their situation. You will know, as people who work in the court system or people who deal with the law - I also studied the law - there are certain conditions when someone is a witness. Just because someone says that someone did something, that does not mean that it is true.

My last point is if you can go back and look at my records from my home country, or even my family's records, you will find that I have never even been in a police station before. I have not ever committed any crime or I have never done anything wrong. How would I go into the biggest terrorist act that has happened so far if I have never committed any crimes before? If I were committing terrorist acts, I would have done so when I was in the United States for that one month. Thank you.

Excuse me. There is one more point I would like to make. During my entire life, even back in my home country, I never had any kind of military training. So how is it that two weeks before the events, I could suddenly become a combatant or a fighter? I went to Afghanistan for two weeks on a leave or holiday from my work. Like a vacation. It was an official break from my work.

Tribunal President: Okay. Due to the length of your statement, we are going to take a brief recess to allow the Tribunal members to go over their notes.

The hearing recessed at 0911 hours. The hearing re-opened at 0915 hours. All parties present prior to the recess were again present.

Tribunal President: Fouzi Al Awda, does that conclude your statement?

Detainee: Yes.

Tribunal President: Will you answer questions?

Detainee: Yes.

ISN [REDACTED]
Enclosure(3)
Page 4 of 13

UNCLASSIFIED//FOUO

UNCLASSIFIED//FOUO

Tribunal President: Personal Representative, do you have any questions for the Detainee?

Personal Representative: Yes, Sir, I do. Why was shooting taught at the camp?

Detainee: It was not necessarily training. It is known that, for that age group, young people like to try these things. That is why it was taught. It was just for the kids who wanted to try it. They were brought to that camp, so they could be taught.

Personal Representative: Did you ever fire your AK-47?

Detainee: No. They have AK-47s that are easily available in Kuwait, but I have never fired any shots.

Personal Representative: While you were in the Tora Bora region, did you ever fire any shots?

Detainee: No.

Personal Representative: The money for your trip -- where did it come from?

Detainee: I work. My monthly salary is \$2,000.00 dollars.

Personal Representative: No other questions.

Tribunal President: Recorder, do you have any questions for the Detainee?

Recorder: Yes, Sir, I do. When you went through the Tora Bora mountains, did you discuss or think about what you would have done if you encountered US or coalition forces?

Detainee: No, but if I would have seen any American troops, I would have turned myself in to them.

Recorder: Did anyone in the group you were with discuss what they would have done if you encountered US or coalition forces?

Detainee: I was not traveling with any group. There were just people together, but I was not traveling with anyone.

Recorder: That is all I have, Sir.

Tribunal President: Do any Tribunal Members have any questions for the Detainee?

ISN [REDACTED]
Enclosure (3)
Page 5 of 13

UNCLASSIFIED//FOUO

UNCLASSIFIED//FOUO

Tribunal Member: Just clarify for me, were you ever a part of Al Qaida or the Taliban? Did you ever support Al Qaida or the Taliban?

Detainee: No. Never.

Tribunal Member: In the camp with the twelve to fourteen year olds, I believe you said you were teaching some lessons. What were you teaching?

Detainee: Teachings of the Koran. That is what I specialize in. That is my area of expertise. I even teach the Koran in here.

Tribunal Member: When you were at the house with the family, where did you stay?

Detainee: They had me in a separate room of the house.

Tribunal Member: Did you know those people?

Detainee: I knew the guy's name, Abu Bakar, from Tunis. I did not know anything more about him.

Tribunal Member: So you did not know if he was a Taliban or a Taliban supporter?

Detainee: No, because a lot of Arabs were living in Afghanistan. They were not a part of any particular group.

Tribunal Member: In that same house, the two other folks who would come and go - were you aware of any affiliation with Al Qaida or Taliban?

Detainee: No.

Tribunal Member: The owner of the house was from Tunis, so he was an Arab?

Detainee: Yes. In case you are surprised or wondering why, I do not know if any of those people were a part of the Taliban. It is because no one at that time would mention or talk about if they were a part of the Taliban. If they did talk about it, the Afghans would come and attack them. So no one would mention any affiliation, if they had any.

Tribunal Member: I am just trying to get the facts in my mind straight. The last bullet in the unclassified statement said you were with five other men. You did not travel with anyone and you did not know who they were?

Detainee: There may have been more than five people. I did not know them. I was not traveling with them. People were all around me. There could have been more or less, but I was not with them.

UNCLASSIFIED//FOUO

Tribunal Member: You had no knowledge of who this group of people were or were not supporting?

Detainee: No. I did not know and I did not care who they were with. I just wanted to leave. If you are wondering why I did not know if any of these people were Taliban or Al Qaida, it was because we were traveling through the snow. People were dying from the snow or from being hit by fire. There was no time to ask anyone where they were from or who they supported or what they were a part of.

Tribunal Member: I am not surprised. I am just trying to find out the factual evidence. Thank you.

Tribunal Member: What country are you from?

Detainee: Kuwait.

Tribunal Member: Was your trip to Afghanistan of an official nature relating to your job or was it a vacation?

Detainee: During my official summer break, I left for Afghanistan for two weeks. My grandmother was sick with cancer at the time. She gave me money she wanted me to give to people who were in need. It was an act of good will. She was very sick and she wanted to give her money to the poor. She thought it would help her. That is why she gave me the money and wanted me to distribute it.

Tribunal Member: So, you were not visiting as a part of your official responsibilities?

Detainee: No. It was a personal trip.

Tribunal Member: Can you give me a little more information regarding the reasons why you needed a Taliban official escorting you if this were a personal trip?

Detainee: I was going to visit some schools during my trip. Schools are a part of the Government. That is why I needed the escort. Also, I did not know the country. I would not have known where to find the poor or needy people if the escort did not show me.

Tribunal Member: So, did you arrange the trip with the Taliban Government prior to going?

Detainee: No. It was after I arrived there. I was praying in one of the Mosques. I asked around for a representative from the Taliban Government.

Tribunal Member: Where was the house you were staying with the family located? What city was that?

UNCLASSIFIED//FOUO

Detainee: In Jalalabad.

Tribunal Member: Why were you staying in that house with the family? What made you pick that place to stay?

Detainee: I went to Jalalabad because it was the closest area to the Pakistani border. I was praying in one of the Mosques when I was approached by this Arab man. He invited me to stay at his home. When the owner of the house found out I was planning to leave, he said come stay with me for a few days until you figure out what you want to do. It was just an act of kindness on his part.

Tribunal Member: When the owner gave you the AK-47, did the owner have a bunch of weapons available? Or did he have an extra weapon? Where did the weapon come from?

Detainee: I did not see all of the house. The owner of the house came into my room and explained there was a lot of conflict and commotion going on. He told me to take the weapon to defend myself.

Tribunal Member: When did you go on your vacation to Afghanistan? Can you give as close of a date as possible?

Detainee to Personal Representative in English: Do you have the date? Can you tell them?

Personal Representative: He traveled to Afghanistan between the 29th of August and the 1st of September.

Detainee: Approximately, I can not remember exactly.

Tribunal Member: Were you at this man's house when the events of September 11th took place in the United States?

Detainee: No. It was two or three months after the attacks of September 11th.

Tribunal Member: If you went for two weeks at the end of August or the beginning of September, why didn't you go back at the end of the two weeks? Why did you stay?

Detainee: I was in Afghanistan when the attacks happened. Then the United States accused Al Qaida of planning the attacks. I was there at that time. They also accused the Taliban. I thought, how could I leave from a place that was under such scrutiny? I thought I would just wait until things calmed down some. Then I would try to leave. But unfortunately things just got more complicated instead of calming down. So I decided I

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just had to leave, even if things were still complicated. It got to the point when I decided I had to leave.

Tribunal Member: To follow up on that. You initially went only for two weeks at the end of August. The September 11th attacks took place at the end of those two weeks. There were no US attacks or coalition attacks right after September 11th. Why would you have not left at the normal time?

Detainee: I had a visa for Pakistan. If I would have tried to go back, they would have questioned me as to why I was in Afghanistan. It would have been difficult for me. It would have been complicated. I was afraid of being accused of anything I might not have done.

Tribunal Member: When you did leave and tried to get into Pakistan, did you have your passport with you?

Detainee: No.

Tribunal Member: What happened to your passport?

Detainee: I was in a place called Lowgar for about a month. I was hiding there with an Afghan. I gave him my passport, my money, and other documents for safekeeping. I took this man's address so when I got to Pakistan, I could write to him and get my things back that I left with him.

Tribunal Member: Why did you leave these things with him?

Detainee: If the Afghans saw I had a passport indicating I was an Arab, and they saw the money and the camera I had, I would have been killed. I do not know what happened to my things. I do not know if this guy still has them, if he sold them, or what he has done with them.

Tribunal Member: Couldn't they tell you were Arab by your language?

Detainee: I was not talking. Just like I was a mute. I would just walk and not say anything at all.

Tribunal President: In the youth camp where the training was conducted, did that camp have a name?

Detainee: I did not read any name.

Tribunal President: You mentioned when you were staying at the house that word came in Afghans were robbing Arabs. Who were the Afghans? Were they the Taliban?

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Detainee: I do not know. I do know after the Government collapsed - the Taliban - there were people who were like highway robbers, people who were opposed to the Government from the very beginning. It was just kind of a commotion that was going on.

Tribunal President: So, prior to the collapse of the Government, when you said Afghans, you said the Taliban was the Afghan Government?

Detainee: When did I say that?

Tribunal President: You said when you first got there to Afghanistan, you were escorted by the Afghan Government, and that was the Taliban. You said if you wanted to be escorted by any Afghani, you had to be escorted by Taliban because they were the Government.

Detainee: The Taliban was controlling Afghanistan, but that does not necessarily mean that every Afghan was Taliban. That was just the Government in Afghanistan.

Tribunal President: That is what I am trying to clarify now. When you said that the Afghans were robbing the Arabs, who were the Afghans?

Detainee: I do not know. Some of them could have been Taliban; some of them could have not been Taliban; some of them could have just been robbers. I do not know exactly.

Tribunal President: In your summary statement you said people who are under arrest make many statements that may be false. If we read or were to see statements you made during interviews, will we see different versions of the truth?

Detainee: No. Not my words.

Tribunal President: You mentioned at one point, while staying at that house during that time period, if you mentioned Taliban affiliation the Afghans would come and hurt you.

Detainee: I said no one at that time would mention who they were affiliated with or what group they were a part of.

Tribunal President: Okay, is that in general? Because earlier it was if anybody mentioned Taliban affiliation, then the Afghans would hurt them.

Detainee: Anyone. You would not say if you were a part of the Taliban, or if you were Arab or anything like that. The United States Government would give rewards or money to anyone who pointed out or got a member of the Taliban or Al Qaida. So, no one would say they were affiliated with any of these groups.

Tribunal President: So, at this time, the people who were robbing the Arabs are not Taliban, but opposed to the Taliban?

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Detainee: It's possible. I am not an Afghan. I did not know what was going on with the Afghans. Some of them were Afghans; some of them were Arabs.

Tribunal President: Okay. But it was a very bad thing to be affiliated with the Taliban in that region at that time?

Detainee: Correct.

Tribunal President: So I can track your movements, initially you started in the youth camp?

Detainee: Before that, I was touring the schools and visiting families - before the training.

Tribunal President: How long in to the two-week window did you make it to the youth camp?

Detainee: Maybe ten days.

Tribunal President: So, it was your intent to stay a couple of days at the youth camp?

Detainee: No. Just one day - from the morning until the evening.

Tribunal President: So, how long did you actually stay there?

Detainee: Six or seven hours - from the morning until late afternoon.

Tribunal President: You went from there to almost two or three months later to Tora Bora. What happened in the meantime?

Detainee: I stayed in Kandahar about a week to ten days after the September 11th attacks. The representative from the Taliban that was with me told me that was a dangerous place because it was the capital for the Taliban. The whole time this was happening, I was confused as to where I should go or when I should leave. I had all these questions I was thinking about. The representative advised me to go to a place that was a lot calmer than Kandahar. So I went to Lowgar and stayed there about a month.

Tribunal President: And where did you go from Lowgar?

Detainee: From there I went to Jalalabad.

Tribunal President: Okay.

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Tribunal Member: Did the Kuwaiti Government officially recognize the Taliban as the official Government of Afghanistan?

Detainee: I don't know. I don't think so.

Tribunal Member: You mentioned you heard accusations that you did not see in the unclassified summary. What are those accusations you've heard about against you?

Detainee: One of the interrogators told me that I was in an Al Qaida training camp. They also accused me of having ties with terrorist organizations during the time I was in the United States. That is all I can remember. Every time they have a different accusation, but this is all I can remember.

Tribunal Member: I take it you deny those allegations?

Detainee: Yes.

Tribunal Member: During that three month time period, you did not go to any camps someone might say are Al Qaida camps?

Detainee: No, never.

Tribunal Member: When you went for your two-week vacation and you stayed for all those extra months, weren't you concerned about keeping your job?

Detainee: The reason I stayed there for so long was because I was scared for my life. To me, my life is more important than keeping my job.

Tribunal Member: So, at the two-week portion, right at the very end of when you were originally scheduled to go back, it was too dangerous to leave the country at that point?

Detainee: If I would have gone back to my country at that time, it would have been great embarrassment, or people would have looked at me strangely. I was just coming from Afghanistan and the United States had just accused Afghanistan, so it would have looked bad. I was afraid of the Kuwaiti authorities who would have obviously questioned me.

The Tribunal had no further questions for the detainee.

Tribunal President: Fouzi Al Awada, I appreciate you're answering all these questions.

Detainee: You are welcome.

Tribunal President: Do you have any other evidence to present?

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Detainee: After a Government is liberated by another Government - my country was liberated by the United States, so it is impossible after that happening, and after my being surrounded by and living with Americans in my country, and visiting the United States, after all that, it is impossible for me to be an enemy combatant against the United States. In my whole life, I have never been an enemy against anyone. I wish for that to be taken into consideration. Maybe the United States Government knows my father's history during the time of the occupation of Kuwait. My father was in the military and helped the United States during that time of the occupation. That is all I have.

Tribunal President: Personal Representative, do you have any additional evidence to present?

Personal Representative: Yes, Sir. I have one additional unclassified exhibit. It's marked "D-B." It is a USA Today article that gives a background of the Detainee's family, travels of the family, and other things the Detainee mentioned earlier.

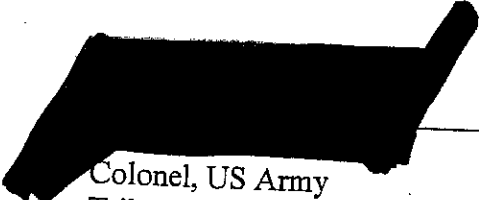
Tribunal President: Recorder, do you have any other unclassified evidence to present?

Recorder: No, Sir, I do not.

Tribunal President: Very well. All evidence having been provided to this Tribunal, this concludes this Tribunal session.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, US Army
Tribunal President

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Combatant Status Review Board

7 August 2004

TO: Personal Representative

FROM: OIC, CSRT

Subject: Summary of Evidence for Combatant Status Review Tribunal – AL AWDA, Fouzi Khalid Abdullah

1. Under the provisions of the Department of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he associated with Al-Qaida and the Taliban and engaged in hostilities against the United States or its coalition partners.
 - a. Detainee is associated with Al-Qaida and the Taliban.
 1. In August or early September 2001, Detainee admits traveling through Afghanistan with Taliban members.
 2. Detainee admits firing an AK-47 at a training camp near Kandahar.
 3. Detainee admitted staying at a guesthouse with fighters armed with AK-47 rifles.
 - b. Detainee engaged in hostilities against the US or its coalition partners.
 1. The detainee admits carrying an AK-47 through the Tora Bora mountains for ten to eleven days during the U.S. air campaign in that region.
 2. Detainee was captured with five other men by Pakistani border guards.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

Exhibit R1



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 6, 2004

REQUEST FOR REDACTION OF NATIONAL SECURITY INFORMATION

ISN [REDACTED]

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

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

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

¹Redactions are marked by means of pink/blue highlighter on the OARDEC provided FBI document.


²See Executive Order 12958

DETAINEE ELECTION FORM

Date: 10 Aug 2004

Start Time: 1000

End Time: 1040

ISN#: 

Personal Representative:  LT COL
(Name/Rank)

Translator Required? YES Language? ARABIC

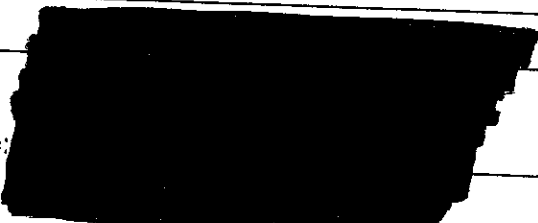
CSRT Procedure Read to Detainee or Written Copy Read by Detainee? YES

Detainee Election:

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

Personal Representative Comments:

Detainee will make and oral statement at the Tribunal. There will not be any witness.

Personal Representative: 

Unclassified

From:
Sent:
To:
Subject:

Classification: UNCLASSIFIED
Caveats: NONE

Thought you might like to see this or like

Interesting!

—Original Message

From:
Sent: Monday, April 19, 2004 4:18 PM
To:
Subject: FYI - Early Bird article

Classification: UNCLASSIFIED
Caveats: FOUO

UNCLASSIFIED - FOUO

USA Today
April 19, 2004
Pg. 14

Prisoner's Father Hopes Courts Find, Fix 'Big Mistake'

But U.S. says son is held in Cuba for good reason

By Richard Willing, USA Today

In Kuwait City, Fawzi al Odah was reared on the Koran and on tales of his father's days as a pilot who trained, partied and hung out with U.S. Air Force personnel in Texas.

In February 1991, when U.S. soldiers freed Kuwait from Iraqi invaders, young Fawzi joined his father, Khalid al Odah, in cheering the marching liberators from a road overpass. Fawzi, then 13, jumped down to join the parade and grabbed and waved an American flag, the father recalls in a telephone interview.

So it was a "terrible shock," Khalid al Odah says, to learn in early 2002 that his son was one of 12 Kuwaiti men who had been captured by the U.S. military in Afghanistan and then transferred to a detention camp at Guantanamo Bay, Cuba. The men, who have not been charged, still are being held by the U.S. government as "enemy combatants" in the war on terrorism.

"I think this is a big mistake," says Khalid al Odah, 52, who believes his son was captured by bounty hunters while doing relief work and then sold to the U.S. military, which was offering rewards for al-Qaeda and Taliban fighters.

"That isn't Fawzi," he says. "He didn't hate Americans, and he never had any weird activities."

Al Odah will be watching from afar on Tuesday when a case involving his son and the other Kuwaiti detainees is argued before the Supreme Court. The case is the first challenge to the legal underpinnings of the Bush administration's legal war on terrorism, and it asks whether the Guantanamo Bay detainees can challenge their detentions in a U.S. court. The Bush administration says that because they are foreigners held in what is

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Unclassified

Exhibit D-d

Unclassified

technically foreign territory, the detainees should not have access to U.S. courts.

But beyond the significant legal issues raised by Fawzi al Odah's case, there are more personal questions that haunt his father: Was Fawzi an aid worker, as his father believes, or a volunteer for the Taliban or al-Qaeda? And if a man brought up in a pro-American home can fall under the spell of Osama bin Laden's jihad, what does that say about America's efforts to win the hearts and minds of moderate Muslims?

"It's all too much" to think about, Khalid al Odah says. "It is a big problem."

Fond memories of Texas

Khalid al Odah first visited the USA in 1975. Then 23, he was a pilot in the Kuwaiti air force who was assigned to learn to fly the F-5 Freedom Fighter jet in Wichita Falls, Texas. Today, his home in Kuwait City contains mementos of the months he spent practicing his flying and perfecting his English: a photo of al Odah drinking a Coke after a training exercise, addresses of American colleagues with whom he is still in touch. Al Odah went to San Antonio a year later for another training session.

"The openness of the people, to make friends with strangers, was remarkable to someone like me coming from a very different society," al Odah recalls. "And - I don't want my wife to hear this part - the discotheques (and) the dances, this was unforgettable to me."

Fawzi, the oldest of Khalid's five children, grew up quickly during the Iraqi occupation after his father went underground and joined the Kuwaiti resistance. "He was the man in the house," Khalid says. "I was very proud."

Fawzi al Odah, who turns 27 in May, majored in Koran studies at the University of Kuwait and taught Muslim principles and history after graduating in 2000. With other religious Kuwaitis, he spent his summer vacations in 2000 and 2001 in Pakistan, teaching and helping to distribute cash he had collected at home to people in villages near the Afghan border.

Just after the Sept. 11 attacks, Fawzi al Odah called his family to say he planned to spend a few weeks working with refugees who had begun to stream into Pakistan from Afghanistan. He was detained in Afghanistan sometime thereafter, and was transferred to U.S. custody and then to Guantanamo Bay in early 2002.

U.S. officials and many in Kuwait doubt that Fawzi al Odah's detention is a case of mistaken identity, as his father insists.

In papers filed in the Supreme Court case, the Justice Department notes that the U.S. military screened and released about 10,000 prisoners in Afghanistan. Only about 700 "with high potential intelligence value or (who) pose a particular threat" have been sent to Guantanamo, the government's papers say. Some have since been released.

Najeeb al Wagyan, a lawyer in Kuwait City, says that many Kuwaitis believe the detainees were up to something. "Everyone believes that there is more than (the men's duty to) religion involved," he says in a telephone interview.

All the more reason, Khalid al Odah says, to allow his son to plead his case in a U.S. court.

"I don't doubt that there are some bad people at Guantanamo, but there are innocent people, too. Look at the ones they release," he says, referring to 146 detainees who have been freed or cleared to be sent home. "To go to court and prove your case, that is how it is supposed to be done in America."

Family draws closer

In court papers, the U.S. government argues that it is necessary to continue to hold the men to prevent them from rejoining the fight against America.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 15 September 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

Lt Col USAF

14 Sept 2004

Date

ISN [REDACTED]
Enclosure (5)