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

LEGAL ADVISOR'S PRETRIAL RECOMMENDATION

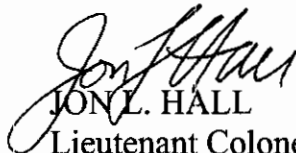
APPOINTING AUTHORITY FOR
MILITARY COMMISSIONS

June 28, 2004

FOR : Deputy Appointing Authority, Office of Military Commissions

SUBJECT: Review of Charge and Recommendation, U.S. v. IBRAHIM AHMED
MAHMOUD AL QOSI

- ACCUSED: Ibrahim Ahmed Mahmoud al Qosi,
aka Mohammed Salih Ahmed, aka Abu Khobaib al Sudani
- CITIZENSHIP: Sudan
- DATE OF BIRTH: December 1960 (?) (approximately 44 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. 040002

UNITED STATES)	
)	
v.)	
)	
IBRAHIM AHMED MAHMOUD AL QOSI)	Approval of Charge
a/k/a Mohammed Salih Ahmed)	And Referral
a/k/a Abu Khobaib al Sudani)	June 28, 2004

The charge against Ibrahim Ahmed Mahmoud al Qosi (a/k/a Mohammed Salih Ahmed, a/k/a Abu Khobaib al Sudani) 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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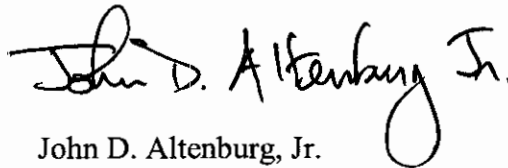
No. 040002

UNITED STATES)	
)	
v.)	
)	
IBRAHIM AHMED MAHMOUD AL QOSI)	Military Commission Members
a/k/a Mohammed Salih Ahmed)	
a/k/a Abu Khobaib al Sudani)	JUN 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:
IBRAHIM AHMED MAHMOUD AL QOSI)	CONSPIRACY
a/k/a Mohammed Salih Ahmed)	
a/k/a Abu Khobaib al Sudani)	

JURISDICTION

1. Jurisdiction for this Military Commission is based on the President's determination of July 3, 2003 that Ibrahim Ahmed Mahmoud al Qosi (a/k/a Mohammed Salih Ahmed, a/k/a Abu Khobaib al Sudani, hereinafter "al Qosi") is subject to his Military Order of November 13, 2001.
2. Al Qosi'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. Egyptian Islamic Jihad (EIJ), under the leadership of Dr. Ayman al Zawahiri, worked closely with al Qaida, starting as early as 1989 through 1998, when EIJ formally merged with al Qaida. Until the merger, a main focus of EIJ was the assassination of the President of Egypt, Hosni Mubarak, and the establishment of a state in Egypt governed according to EIJ's own interpretation of Islam. It also advocated violent opposition to the United States, in part, for its support for the Government of Egypt.
7. 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.

8. Between 1989 and 2001, al Qaida established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries.
9. In 1992 and 1993, al Qaida supported violent opposition of U.S. property and nationals by, among other things, transporting personnel, weapons, explosives, and ammunition to Yemen, Saudi Arabia, Somalia, and other countries.
10. 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.
11. In February 1998, Usama bin Laden, Ayman al Zawahiri, and others, under the banner of "International Islamic Front for Fighting 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."
12. 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 the enemies of God."
13. 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

14. Ibrahim Ahmed Mahmoud al Qosi (a/k/a Mohammed Salih Ahmed, a/k/a Abu Khobaib al Sudani, hereinafter "al Qosi"), in Afghanistan, Pakistan, the Sudan, Ethiopia, Yemen, and other countries, from on or about June 1989 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 Zawahiri (a/k/a "the Doctor"), Abu Obeidah al Banshiri, Muhammad Atef (a/k/a Abu Hafs al Masri, hereinafter "Abu Hafs"), Sheikh Sayeed al Masri, Mohammed Suliman al Nalfi, Jamal Ahmed Mohammed al Fadl, Salem Ahmed Salem Hamdan (a/k/a Saqr al Jadawi, hereinafter "Hamdan"), 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, said conduct being in the context of and associated with armed conflict.

15. In furtherance of this enterprise and conspiracy, al Qosi and other members of al Qaida committed the following overt acts:

- a. In 1989, while in the Sudan, al Qosi, after learning the nature and purpose of al Qaida, became a member and remained a member of al Qaida until his capture in December 2001.
- b. From about June 1989 to about October 1990, in his capacity as an al Qaida member, al Qosi passed information between members of terrorist cells operating within the Sudan and provided logistical support such as food, shelter and clothing for members of these terrorist cells.
- c. In or about October 1990, al Qaida member Mohammed Suliman al Nalfi arranged for and paid, using al Qaida funds, al Qosi's travel from the Sudan into Afghanistan.
- d. In Afghanistan, around late 1990 to early 1991, al Qosi attended and completed the al Farouq camp, a training camp sponsored by al Qaida. Lasting approximately 45 days, his training included, among other things, physical training, military tactics, and weapons instruction and firing on a variety of individual and crew-served weapons.
- e. In or about September 1991, after participating for a period of time in the fighting in Afghanistan, al Qosi assumed a position as an accountant in al Qaida's *Mektabh al Muhassiba* (accounting office) in Peshawar, Pakistan. He assumed the position of deputy chief financial officer, reporting directly to Sheikh Sayeed al Masri, chief financial officer and leader of al Qaida's finance committee. Due to his accounting background, al Qosi was put in charge of managing donated money from non-governmental and charitable organizations and distributing it for salaries, travel, and support of al Qaida members, training camps, operations, and other al Qaida expenses.
- f. From about 1992 through about 1995, al Qosi worked in "Taba Investment Company" (Taba) in the Sudan as an accountant and treasurer. Usama bin Laden established Taba as one of a series of businesses intended to provide income to al Qaida for its training and operations, and to provide cover for the procurement of explosives, weapons and chemicals. Among other activities, al Qosi signed checks on behalf of Usama bin Laden, exchanged money on the black market from Sudanese currency to U.S. dollars, and couriered money on behalf of al Qaida.
- g. From around 1991 to around 1994, al Qosi assisted in loading and transporting explosives, weapons, and ammunition within and outside of the Sudan.

- h. In 1994, after a failed assassination attempt of Usama bin Laden in Khartoum, Sudan, Usama bin Laden handpicked al Qosi to serve as a member of his newly formed "bodyguard" force.
- i. In 1995, while still in the Sudan, al Qosi requested and received permission from Usama bin Laden to travel to Chechnya to fight alongside other Islamic militants against the Russians. Usama bin Laden financed al Qosi's trip to and from Chechnya.
- j. In 1996, al Qosi departed Chechnya and sought out Usama bin Laden. Al Qosi located and rejoined Usama bin Laden in the Tora Bora Mountains, Afghanistan. Along with Usama bin Laden and his entourage, al Qosi moved to the "Star of Jihad" compound in Jalalabad, Afghanistan, where al Qosi assisted in logistical support of the compound. This compound eventually moved to Qandahar, Afghanistan.
- k. From about 1996 until his capture in December 2001, al Qosi served as one of Usama bin Laden's bodyguards and drivers. When Usama bin Laden traveled, Al Qosi and others in the bodyguard detachment accompanied him. Al Qosi remained armed, providing Usama bin Laden with physical protection, and was a driver for the caravan of vehicles used to transport Usama bin Laden, occasionally driving Usama bin Laden himself. Additionally, al Qosi was responsible for the supplies and cooking for the detachment.
- l. After being placed on alert by Usama bin Laden in the weeks just before the attacks on the U.S. of September 11, 2001, al Qosi assisted Usama bin Laden and other al Qaida members in mobilizing and evacuating from Qandahar. Al Qosi remained with and assisted Usama bin Laden and other al Qaida leaders before, during, and after the attacks of September 11, 2001.