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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:
GUANTANAMO BAY
DETAINEE LITIGATION

Misc. No. 08-442(TFH)

Civil Action No.
04-CV-1194(HHK)

AMENDED FACTUAL RETURN

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Respondents hereby submit, as explained herein, an amended factual return pertaining to the petitioner identified as the subject of the attached Narrative. This amended return is intended to supersede the material contained in any previously filed return, except for the fact that petitioner was previously determined by a Combatant Status Review Tribunal to be an enemy combatant.

This amended return sets forth factual bases¹ supporting petitioner's lawful, ongoing detention pursuant to the Authorization for the Use of Military Force and the President's power as Commander in Chief.

Dated: September 2, 2008

Respectfully submitted,

GREGORY G. KATSAS
Assistant Attorney General

JOHN C. O'QUINN
Deputy Assistant Attorney General

¹ Respondents reserve the right to seek leave to further supplement the record with additional factual bases supporting petitioner's detention, as necessary.

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JOSEPH H. HUNT (D.C. Bar No. 431134)
VINCENT M. GARVEY (D.C. Bar No. 127191)
TERRY M. HENRY
JUDRY L. SUBAR (D.C. Bar No. 347518)
PAUL AHERN
EDWARD J. MARTIN
Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, DC 20530
Tel: 202.305-7898
Fax: 202.305-2685

Attorneys for Respondents

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DECLARATION OF REAR ADMIRAL DAVID THOMAS

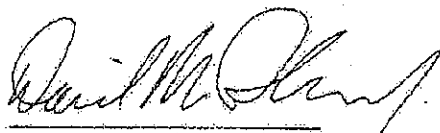
Declaration of Rear Admiral David M. Thomas, Jr.

Pursuant to 28 U.S.C. § 1746, I, David M. Thomas, Jr., hereby declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

I am a Rear Admiral in the United States Navy, with 31 years of active duty service. I currently serve as Commander, Joint Task Force-Guantanamo (JTF-GTMO), at Guantanamo Bay, Cuba. I have held this position since 27 May 2008. As such, I am directly responsible for the successful execution of the JTF-GTMO mission to conduct detention and interrogation operations in support of the Global War on Terrorism, coordinate and implement detainee screening operations, and support law enforcement and war crimes investigations.

The attached narrative and supporting materials from files of the Department of Defense or other government agencies contain information used by the Department of Defense to establish the status of the individual who is the subject of the narrative as an enemy combatant and to substantiate their detention as an enemy combatant at Guantanamo Bay, Cuba.

Dated:



DAVID M. THOMAS, JR.
Rear Admiral, U.S. Navy

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IMAD ABDULLAH HASSAN,

Petitioner,

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

Civil Action No. 04-CV-1194 (HHK)

NARRATIVE REGARDING PETITIONER IMAD ABDULLAH HASSAN, ISN 680

Introduction

1. Imad Abdullah Hassan ("the petitioner"), is a ^{b(1)} [REDACTED] who claims that he has never been to Afghanistan. However, numerous individuals indicate that the petitioner is a member of al-Qaida, trained at the al-Farouq training camp, was initially selected to be a guard for Usama bin Laden, and upon completion of training joined the front lines near Kabul. In addition, there is evidence that the petitioner was a medic at Tora Bora, and that he swore an oath of fealty to Usama bin Laden. The petitioner was captured in a guest house along with mujahideen who had explosives expertise. Finally, evidence indicates that the petitioner acted as a facilitator and assisted at least one individual in making the trip from Yemen to Afghanistan. Consequently, and for reasons including those described further below, the petitioner is lawfully subject to detention pursuant to, among other things, the President's power as Commander in Chief and the Authorization for the Use of Military Force.

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2. In the attached documents related to the factual bases for the petitioner's detention and his assessment as a legally detainable enemy combatant, there are documents reflecting interviews with him and others conducted by law enforcement and intelligence personnel, as well as information derived from other sources and methods. Information received from these sources is typically reproduced in reports created by the collecting officer. Such information is also commonly analyzed by intelligence or law enforcement personnel and used to produce other intelligence products. See Declaration of **D3** Declaration of Robert H. Holmes.

3. As with all detained enemy combatants at Guantanamo Bay, Cuba, the petitioner has been assigned an Internment Serial Number or ISN. The ISN is an administrative code assigned to military detainees. The petitioner's full ISN is **b(2)**-000680**b(2)** in which the number "680" is the petitioner's unique identifier and the **b(2)** designation indicates that he is a

b(1) Source documents attached as Exhibits to this Declaration may refer to the petitioner by name, alias, full ISN, or various short forms, such as **b(2)**-000680" or "ISN 680."

4. It is common for those engaged in terrorist activities to use an alias, commonly known in Arabic as a *kunya*. For example, **A6** ISN **A2** identified the petitioner as "Imad," ISN **A2** FM40 (Sept. 12, 2003). **A6** ISN **A2** identified the petitioner as Abdul Rahman Ba Lahaith. ISN **A2** CITF FM40 (Sept. 28, 2004).

5. The following narrative and attached materials set forth the factual bases supporting petitioner's lawful detention. This narrative is not intended to be a complete explication of the information in support of petitioner's detention in those documents.

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General Background

6. 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. See The 9/11 Commission Report 56 (2004).

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

8. 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. *Id.* at 59-61.

9. 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. *Id.* at 64-67.

10. In 1996, Usama bin Laden issued a public "Declaration of Jihad Against the Americans." This declaration called for the murder of U.S. military personnel serving on the Arabian peninsula. *Id.* at 48.

11. In February 1998, Usama bin Laden and Ayman al Zawahiri (bin Laden's deputy) issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans - whether civilian or military - anywhere in the world. *Id.* at 47.

12. 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, which killed approximately 250

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people, *see id.* at 68-70; the attack against the USS Cole in October 2000, which killed 17 United States Navy sailors, *see id.* at 190-93; and the attacks on the United States on September 11, 2001, which killed approximately 3,000 people. *See id. passim.*

13. The Taliban (students of Islamic knowledge) is an Islamic fundamentalist group that was formed in Afghanistan in 1994. *See* The Taliban in Afghanistan, at www.cfc.org/publication/10551. After two years of violent conflict that included the capture of Kabul, Afghanistan's capital, the Taliban took control of Afghanistan's national government in 1996. *See* The 9/11 Commission Report 65 (2004). Although it was never formally recognized by the United States, *id.* at 124, the Taliban controlled Afghanistan's national government from 1996 until the United States-led military campaign ousted the Taliban from power in 2001. *Id.* at 337-38. During the period in which the Taliban controlled Afghanistan's national government, it provided safe harbor and support to al-Qaida and Usama bin Laden. *Id.* at 64-67.

14. On September 18, 2001, following the attacks on the United States on September 11, 2001, Congress adopted the Authorization for the Use of Military Force. *See* 115 Stat. 224 (2001). Recognizing that the attacks of September 11, 2001 "render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens at home and abroad," Congress authorized the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." Within weeks,

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United States military forces were deployed in Afghanistan. *See* The 9/11 Commission Report 337 (2004).

15. The United States led the initial aerial bombing campaign of Afghanistan, with ground forces composed of United States forces and Afghanistan militia opposed to the Taliban, including the Northern Alliance. The Northern Alliance is an association of Afghan groups opposed to the Taliban. The Northern Alliance has assisted the United States in its military campaign in Afghanistan to defeat al-Qaida and the Taliban. *Id.* at 330-34; 336-38.

16. In December 2001, the United States-led military campaign removed the Taliban from control of Afghanistan's national government. *Id.* at 337-38. Taliban and al-Qaida forces, however, have continued to operate in Afghanistan and attack coalition forces. Currently, two major military operations are underway in Afghanistan. First, Operation Enduring Freedom (OEF) is a multinational coalition military operation, led by the United States, initiated in October 2001 to counter terrorism and bring security to Afghanistan in collaboration with Afghan forces. *See* www.state.gov/r/pa/prs/ps/2006/60083.htm. OEF operations led to the collapse of the Taliban government and helped bring security and stability to Afghanistan. *Id.* OEF involves troops from over 20 nations, including about 19,000 United States forces and about 3,000 non-United States troops. *Id.* Second, the International Security Assistance Force (ISAF) is a United Nations-mandated international coalition operating under the command of the North Atlantic Treaty Organization (NATO). *See* www.nato.int/isaf/index.html. ISAF was established in 2002 with the goal of creating conditions for stabilization and reconstruction in Afghanistan. ISAF is comprised of approximately 50,000 troops from 40 countries. *Id.*

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Petitioner Denies Ever Going to Afghanistan

17. According to his account, the petitioner departed Yemen for Pakistan on August 8, 2001, for the purposes of studying religion at the Salafeyah University in Faisalabad. The petitioner claims that he flew from Sanna, Yemen, through Dubai, the United Arab Emirates, into Karachi, Pakistan, and then took a bus to the University and moved into the dormitory. After living in the dormitory for four or five months, the petitioner claims to have moved into an off-campus house run by a Pakistani named Isa. The petitioner claims that he stayed at this house for approximately one month before being arrested by the Pakistanis. ISN 680 FD 302 (June 19, 2002).

18. Although he does not admit that he ever entered Afghanistan, the petitioner does indicate that if someone he considered a leader ordered an attack on Americans then he would be bound by duty to obey. ISN 680 CITF (Mar. 22, 2004).

The Petitioner had Previously been to Afghanistan
and He Facilitated the Travel of Another Individual in August of 2001

19. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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b(1), b(2), b(6) ISN [redacted] FD-302 (June 9, 2002); see also b(2)

b(2)

20.



The Petitioner Trained and Fought with Al-Qaida

21. A6 [redacted] ISN A2 [redacted] facilitated the travel of many Yemeni and was closely associated with Usama bin Laden. ISN A2 [redacted] CITF FM40 (Sept. 28, 2004). A6 [redacted] identified A7 [redacted] the petitioner as Abdul Rahman Ba Lahaith. A6 [redacted] claims he knew the petitioner in Yemen, facilitated his travel to Afghanistan in 2000, and saw the petitioner in Afghanistan. A6 [redacted] claims that the petitioner attended the al-Farouq training camp, and upon the completion of training moved to Kabul and joined the Khalid Center front lines. *Id.*; see also Declaration of D3 [redacted] Terrorist Training Camps.

¹ [redacted] b(1), b(2) [redacted] b(2)

² Although he claims to have traveled to Pakistan to study at a University, the petitioner obtained only a three month visa. ISN D2 [redacted] D2 [redacted]

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22. [REDACTED] b(1), b(2), b(6)

[REDACTED] b(1), b(2), b(6)

[REDACTED] b(1), b(6)

[REDACTED] b(1), b(6)

[REDACTED] b(1), b(2)

[REDACTED] b(1), b(2)

[REDACTED] ISN^{A2} FM40 (Sept. 12, 2003); see also [REDACTED] b(2)

[REDACTED] b(2) Declaration of [REDACTED] D3 Guest Houses.

23. ISN^{A2} states that the petitioner was one of fifty men selected from al-Farouq to be guards for Usama bin Laden. However, upon arriving at Tora Bora the petitioner discovered that Usama bin Laden had his own guards,⁴ so he became a foot soldier and trained as a medic. ISN^{A2} FM40 (Sept. 12, 2003).

³ The author of a Department of Defense Criminal Investigation Task Force (DOD/CITF) memorandum commented in describing [REDACTED] A6 (ISN^{A2}) statement with respect to another detainee [REDACTED] DOD/CITF Memorandum (May 14, 2004). [REDACTED] b(1), b(2), b(6) [REDACTED] b(1), b(2), b(6) [REDACTED] b(1), b(5) [REDACTED] b(2)

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24. [b(1), b(6)]

[b(1), b(6)]

[b(1), b(6)] *Id.*; see also, [b(2)]

25. [b(1), b(2), b(6)]

[b(1), b(2), b(6)]

[b(1), b(2), b(6)] [b(2)] Bayat is a sworn oath of fealty.

The 9/11 Commission Report 67 (2004).

The Petitioner was Captured at an Al-Qaida Guest House in Pakistan

26. [b(1), b(2)]

[b(1), b(2)] [b(2)] see also [b(2)]

[b(2)]

27. [b(1), b(2), b(6)] [b(2)]

[b(2)] see also ISN 680 FD 302 (June 19, 2002).

28. [b(1), b(2), b(6)]

[b(1), b(2), b(6)]

[b(1), b(2), b(6)] [b(2)] ISN A2 FM40 (Sept. 24, 2003).

4 [A6] ISN A2 who spent a considerable amount of time with Usama bin Laden's bodyguards, indicated that he did not believe that the petitioner ever actually became a bodyguard for bin Laden. ISN A2 CITF FM40 (Sept. 28, 2004).

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b(1), b(2), b(6)

b(1), b(2), b(6)

b(2)

see also, b(2)

Conclusion

For reasons described above and in the attached exhibits, Petitioner is properly detained by the United States.

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