

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OMAR RAJAB AMIN, *et al.*

Petitioners/Plaintiffs,

v.

GEORGE W. BUSH,

President of the United States, *et al.*,

Respondents/Defendants.

Civil Action No. 02-CV-0828 (CKK)

DECLARATION OF TERESA A. McPALMER

Pursuant to 28 U.S.C. § 1746, I, Commander Teresa A. McPalmer, 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 Office for the Administrative Review of the Detention of Enemy Combatants at U.S. Naval Base Guantanamo Bay, Cuba. In that capacity I am an advisor to the Director, Combatant Status Review Tribunals.

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 Omar Rajab Amin that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto.

Information considered law enforcement sensitive as well as that which would personally identify the detainee's family members and certain U.S. Government personnel have been redacted in order to protect the personal security of those individuals. Internment serial numbers have also been redacted because certain combinations of internment 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: 29 Dec 04

Teresa A. McPalmer
Teresa A. McPalmer
CDR, JAGC, USN



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

OARDEC/Ser: 0509

10 DEC 2004

From: Director, Combatant Status Review Tribunal

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

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN # [REDACTED] meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final and the detainee will be scheduled for an Administrative Review Board.

A handwritten signature in black ink, appearing to read "J. M. McGARRAH", is positioned above the printed name.

J. M. McGARRAH
RADM, CEC, USN

Distribution:

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9 Dec 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 #12 of 29 September 2004
(2) 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 elected not to participate.

b. The Tribunal was properly convened and constituted by enclosure (1).

c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibit R-14 was redacted. The FBI properly certified in exhibit R-2 that none of the redacted information would support a determination that the detainee is not an enemy combatant. Additionally, some information in exhibits R-15 and R-16 was redacted. It is clear that the improperly redacted information consists solely of internee serial numbers and an interviewer's name.

d. The detainee requested that four documents be produced as evidence at the tribunal.¹ He requested a copy of his employment history; his citizenship papers; a leave request from a job and his child's health report;² and documentation from a hospital regarding his child's medical treatment. The Tribunal President determined that the documents were relevant and forwarded a request to the U.S. State Department on 7 October 2004 in an effort to obtain the information. On 27 October 2004 the State Department notified the Tribunal that the U.S. embassy was unable to obtain the information. In light of the State Department notice, the Tribunal President determined that the requested documents were not reasonably available. In my opinion, the Tribunal President did not abuse his discretion in finding the documents not reasonably available.

¹ Paragraph 2 of enclosure (1) of the Tribunal Decision Report erroneously states that the detainee did not request the production of any evidence.

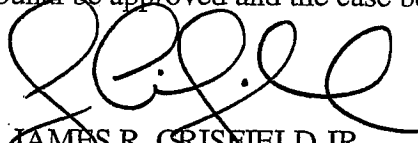
² For reasons that are not readily apparent, both the Detainee Election Form and the Tribunal Decision Report refer to the leave request and health report as one document.

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

- 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

29 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #12

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. Marine Corps Reserve; President

[REDACTED] Lieutenant Colonel, JAGC, U.S. Army;
Member (JAG)

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Navy



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

4 November 2004

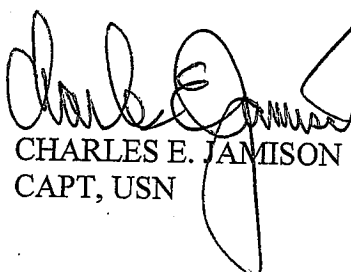
MEMORANDUM FOR DIRECTOR, CSRT

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.


CHARLES E. JAMISON
CAPT, USN

SECRET//NOFORN//X1

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

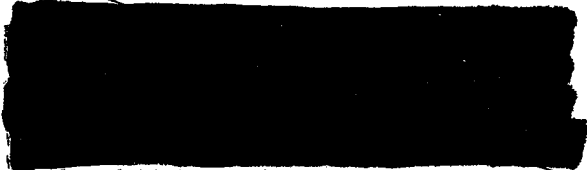
(U) TRIBUNAL PANEL: #12

(U) ISN#:

Ref: (a) (U) Convening Order for Tribunal #12 of 29 September 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/FOUO)
(2) (U) Classified Summary of Basis for Tribunal Decision (S/NF)
(3) (U) Summary of Detainee/Witness Testimony (U/FOUO)
(4) (U) Copies of Documentary Evidence Presented (S/NF)
(5) (U) Personal Representative's Record Review (U/FOUO)

1. (U) This Tribunal was convened on 1 November 2004 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 1 November 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # is properly designated as an enemy combatant, as defined in reference (c).
3. (U) In particular, the Tribunal finds that this Detainee was part of, or supporting, Al-Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).


Colonel, U.S. Marine Corps
Tribunal President

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**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #12
ISN #: _____ [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant because he was part of, or supporting, Al-Qaida, which is engaged in hostilities against the United States and 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 unclassified evidence presented to the Tribunal by the Recorder alleged that the Detainee traveled from Kuwait, through the United Arab Emirates to Bahrain, to Iran, and finally to Kabul, Afghanistan on 2 October 2001. He is a member of the nongovernmental organization (NGO) called the Kuwaiti Joint Relief Committee (KJRC). The KJRC is suspected of providing funding and travel documents for mujahedin fighters, with possible links between the KJRC and Al-Qaida. The Detainee is said to have admitted raising \$10,000 U.S. dollars and transporting it to Afghanistan. He also admits fleeing with others due to the "opposition" Northern Alliance taking over the city. The Detainee's name was listed on a document recovered in safehouse raids associated with suspected Al-Qaida members in Karachi, Pakistan. The Detainee was also listed on a document as being a member of the Mujahedin Brigade in Bosnia. The Detainee chose to participate in the Tribunal process. He called no witnesses, requested no unclassified or classified documents be produced, and made a sworn verbal statement. The Detainee, in his verbal statement, denied being an Al-Qaida member. The Detainee testified that he was not associated with Al-Qaida either personally or through the Kuwaiti Joint Relief Committee. He also denied any knowledge of why his name may have shown up on a document seized from a suspected Al-Qaida safehouse. He admitted taking \$10,000 to Afghanistan, but to distribute it to orphans and refugees, not to "transport" it to another person. He denied using the word "opposition" in reference to the Northern Alliance (with the implication that he was affiliated with whomever the Northern Alliance was opposing), claiming that the interrogators inserted that word into his previous statement. He denied being a member of the Mujahedin Brigade.

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3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, and R-1 through R-17.
- b. Testimony of the following persons: Sworn statement of the Detainee.

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

The Detainee requested the following additional evidence be produced:

<u>Evidence</u>	<u>President's Decision</u>	<u>Produced?</u>
1. Copy of Employment History	Relevant but not reasonably available	No
2. Citizenship Papers for Kuwait & Bosnia	Relevant but not reasonably available	No
3. Leave request from job and child's health report	Relevant but not reasonably available	No
4. Hospital documentation showing child to have heart surgery.	Relevant but not reasonably available	No

*In response to the Detainee's request for these documents on 29 September 2004, the Tribunal President originally ruled that they were relevant and directed that coordination be made with the U.S. Department of State in an effort to procure them. On 27 October 2004, this office was notified by the U.S. Department of State that the U.S. Embassy was unable to locate the requested documents. The Tribunal did not construe this development against the Detainee, as no information was introduced to contradict the Detainee's testimony of what these documents would have said had they been produced. The Tribunal considered the testimony concerning these documents, along with the rest of the Detainee's testimony and the other evidence presented, to make its overall determination in this case.

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-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements

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without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. The Tribunal considered Detainee's sworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee testified that he was not associated with Al-Qaida either personally or through the Kuwaiti Joint Relief Committee. He also denied any knowledge of why his name may have shown up on a document seized from a suspected Al-Qaida safehouse. He admitted taking \$10,000 to Afghanistan, but to distribute it to orphans and refugees, not to "transport" it to another person. He denied using the word "opposition" in reference to the Northern Alliance (with the implication that he was affiliated with whomever the Northern Alliance was opposing), claiming that the interrogators inserted that word into his previous statement. He denied being a member of the Mujahedin Brigade.

c. The Tribunal found the following unclassified evidence unpersuasive in making its determinations:

1. Exhibit R-3, Affidavit from Detainee's family, undated. The Tribunal considered this exhibit unpersuasive, in pertinent part, because the Detainee contradicted parts of it during his Tribunal testimony. For example, when questioned about a discrepancy between his answers that he had never traveled to Pakistan, versus his family's assertion that he had traveled to Pakistan, the Detainee reaffirmed that he had never been to Pakistan and that his family must have said that because Pakistan is the place where he was captured. Also, when asked to reconcile his answer that he had told his family he was going to Afghanistan versus their answer that he did not mention anything about going to Afghanistan, the Detainee insisted that he had told his family that he was going there. He further offered that his family must have said that because they were trying to help him and did not want him to be in Cuba.

2. Exhibit R-4, Executive Order 13224, 23 September 2001. A search of this document indicates that Yasin al Qadi (referred to in Exhibit R-11) was designated on October 12, 2001 as a supporter of terrorism. However, there was no mention of the Detainee or the Kuwaiti Joint Relief Committee in this exhibit. Therefore, in and of itself, the exhibit did not help persuade the Tribunal that the Detainee was properly classified as an enemy combatant.

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.

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6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

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

a. The Detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was requested or deemed necessary.

b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.

c. The Detainee is properly classified as an enemy combatant because he was part of, or supporting, Al-Qaida, which is engaged in hostilities against the United States and its coalition partners.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

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

Colonel, U.S. Marine Corps
Tribunal President

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The Tribunal President advised the Detainee that he would not be permitted to read classified evidence, and the following discussion ensued:

Detainee: Is it possible to see this evidence, in order to refute it?

Tribunal President: The classified information cannot be made available to you for reasons of national security. You may see the unclassified evidence.

Detainee: The past three years, through all of my interrogations, the evidence presented in the Unclassified Summary is basically a summary of what I've said in the interrogations before. The interrogators have talked and discussed every issue, big and little, that has been said. I'm not expecting there to be anything more than what is written here in the classified evidence, because the interrogators have not discussed any other evidence besides this.

Tribunal President: We don't know what might be in the classified evidence; we have yet to see it.

Detainee: I do not know what the Recorder has presented, in terms of evidence, but I do know that a lot of witnesses here, other Detainees here, are against my country. Some are Iraqis or other nationalities and may say something against me because of their dislike for my country. Some people here are crazy and not reasonable and some have talked with us Kuwaitis about the fact that they do not like our country. They may have said something against me because of that.

Tribunal President: We will take the things you have brought to our attention into consideration. We will give you an opportunity shortly to go into detail any information on the Unclassified Summary, as well as anything else you would like us to be aware of.

The Tribunal President continued reading the hearing instructions to the Detainee.

Summarized Sworn Detainee Statement

The Detainee was sworn.

- 3(a) **The Detainee is an Al Qaeda and/or Taliban supporter.**

This is very far from the truth and I deny it completely. I have worked with charity organizations for seven years and the Taliban had been governing Afghanistan for six years. Al Qaeda, who knows how long they've been around? Since the 90's or since the days of the Russians?

Not one day in my life had I traveled to Afghanistan, Iran or Pakistan and I never transferred even \$1.00 into the accounts of any of these people.

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The Americans, the FBI and the CIA, know this. My name is not even on any of their "black lists."

The Taliban has been around for six years and enforce the (inaudible) Islamic law and they destroyed the statue of Buddha. All of this did not attract me to help them for even one day.

All of the sudden I am an Al Qaeda and/or Taliban supporter? This is something that is, quite honestly, very very far from the rest of the evidence. I did not expect this to be on here.

Regarding these points, some of them are correct, but the interrogators have altered their meanings. Some points have some words changed and some are very far from the truth. Some points have never been mentioned to me in three years. If you wish, I'll go through each point separately and elaborate on each one.

- **3(a)1 The Detainee traveled from Kuwait, through the United Arab Emirates to Bahrain, to Iran, and finally to Kabul, Afghanistan on 2 October 01.**

I did not travel to Bahrain; I traveled from Kuwait to the United Arab Emirates to Iran, and that was my final destination point.

I had seen the news, and even CNN was reporting that there were 2 million refugees that were fleeing from Afghanistan to Iran. I wanted, to my ability, to work with charity organizations, NGO's I had worked before in Zagreb, Croatia for 1½ years and for 5½ or 6 years in Bosnia.

I will mention this more, but this is just to address why I was going to Iran.

The 2 million refugees in Iran and the million refugees in Pakistan; their situation was terrible and sad. I was very touched by this and I felt the need to help. I went to Iran to see this for myself. Those of us who work with charities do not put too much emphasis on what we hear from the media. We like to see it for ourselves; we have to see the reality of the situation. I took about 1 to 1½ months leave from my work, so I could briefly see what the situation was.

I did raise \$10,000 before I went there, and that is approximately 3,000 Kuwaiti Dinars. For Kuwaitis, 3000 Kuwaiti Dinars is not a large sum of money at all. About 1/3 of that amount I contributed myself and the rest of the money was from my brothers and sisters. I was very quick and

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necessary because I was going to see 2 million refugees, so it wouldn't make sense to go empty handed.

I went to Iran and went to the borders and I didn't see anything. At that point, I had to make a decision, either to go in [to Afghanistan] or to go back, so I decided to go in.

The interrogators asked me why I decided to go into Afghanistan when I knew the Americans would go into this war with Afghanistan. I told them that if I had known the Americans were going to enter the war, I would not have gone in. Also, if I had known that they were not going to apply the Geneva Convention, especially to people working in charity organizations, I would not have gone in.

I always repeat this to the interrogators, a statement from the Secretary of Defense. I remember this statement very well and I'm going to say it in English. "He who thinks we will fire a couple of cruise missiles to Afghanistan is mistaken. This war is going to be a political war, an economical war, an information war and an intelligence war." They didn't say it was going to be a military effort. This was a statement that was repeated by all American officials. The Secretary of Defense said this was going to be an unconventional war.

The Americans were not stupid. They were not going to commit all their troops to go into Afghanistan to die, like the Russians and the British. The same thing was said by military analysts on the news. I saw it myself, on the news. The Americans were not going to be foolish, and that's why I made the decision, that ultimately brought me here, to go into Afghanistan to see those 2 million refugees, that apparently were not even there.

- **3(a)2 The Detainee is a member of the non-governmental organization (NGO) Kuwaiti Joint Relief Committee.**

It is true; I was a member of the Kuwaiti Joint Relief Committee from 1993 until 1999. From 1993 to mid 1994 I was in Zagreb, Croatia and from 1995 to 1999 I was in Bosnia. The Kuwaiti Joint Relief Committee didn't have anything to do with me going to Afghanistan, because in 1999 I was done with it.

- **3(a)3 The Kuwaiti Joint Relief Committee is suspected of providing funding and travel documents for mujahadin. Possible links to Al Qaeda.**

This is apparently explaining 3(a)2 and is against me, it seems. The Kuwaiti Joint Relief Committee was in Bosnia from 1993. The Americans were in Bosnia from 1995 to 1999, or until I left. They might have been

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there longer. No one ever gave this committee any trouble or said anything about their activities in Bosnia. On the contrary, the Americans would come and meet with us and with the head of the committee. We were given many thanks from the Bosnian government, the American government and the Croatian government, for the work this Joint Relief Committee was doing in Bosnia.

No one ever voiced any opposition against what we were doing until September 11th. Only after September 11th is this point being brought up.

If you look at the wording of this statement it says "suspected" or "possible." Nothing concrete. It's all speculation. Only after September 11th did it become like this. It's not normal.

- **3(a)4 The Detainee admits raising \$10,000 (USD) and transporting it to Afghanistan.**

I think I covered this in my response to 3(a), but quickly I'll go over it. Yes, I did raise \$10,000 but it was not to transport it to Afghanistan. This statement implies that I was going to meet someone in Afghanistan and is not correct.

Yes, I did raise \$10,000 but this amount is very trivial in Kuwait.

- **3(a)5 The Detainee admitted fleeing with others due to the "opposition," (Northern Alliance) taking over the city.**

This is true, but I was not with anyone else. I went by myself. I did flee, but not only because the Northern Alliance was taking over the city, but also because the residents of the city were killing Arabs.

I had my own personal interpreter with me who helped me. We were working every day from the morning until sunset. We would work all day, meeting with the poor people and the orphans.

Thank God, one day my interpreter said I shouldn't go back to the city because the Northern Alliance was either nearing the city or had already taken the city, but people inside the city were killing any Arabs in the city at the time. So, I left by myself.

Later on, I met other Arabs that were with Afghans. They rounded us all up together. It was a very long trip to Pakistan and at that point, we surrendered ourselves at the Pakistan border. We turned ourselves in to the Pakistanis at their border.

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- **3(a)6 The Detainee was listed on a document recovered in safehouse raids associated with suspected Al Qaeda in Karachi, Pakistan.**

Like I said before, this is the first time I've heard of this. None of the interrogators ever brought it up at any of the interrogations. I know the interrogators make it a point to talk about every little or big thing that comes to their attention.

So, just my name doesn't make any sense. Did you see any documents of mine? Did you see a passport? Did you see anything? Just my name? That's it? This doesn't make any sense.

What I think is that some people in Pakistan were sympathetic to our situation and leaked our names to the media. These names that were leaked to the media were taken by Arabs and brought over to our families. Maybe some of the Arabs saw my name in the media and took it so they could tell my family what was going on. Other than that, it doesn't make sense.

I asked the interrogators if they found my passport over there and they said no.

- **3(a)7 During the raid on the Karachi safehouses, armed gunmen fought with police; firearms and grenades were seized; and police and security forces were injured by gunfire.**

This item was not initially addressed by the Detainee (but see page 7 below).

- **3(a)8 The Detainee was listed on a document as being a member of the Mujahadin Brigade in Bosnia.**

The interrogators have been asking me about this for three years. One time, the interrogator had a document in his hand and was reading from it and said that I was a member of the Mujahadin Brigade in the Bosnian Army from either 1992 to 1993 or 1993 to 1994.

I answered him by asking him if he knew where I was in the year 1992. I told him I was in Nebraska and I was graduating. I graduated in May of 1992. From 1992 to 1993, I was in Kuwait, working for the Kuwait Institute for Scientific Research.

From 1993 to mid 1994 I was in Zagreb, Croatia. Of course, he became silent at that time. He asked how would the Bosnian government provide

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him with this document and I told him I'd explain and I'll tell you the answer. It is a long story, but I'll tell you the short version.

I married a Bosnian woman in the end of 1994. As you know, there was a war over there at that time. When we got married it was a religious ceremony. It was a legitimate marriage but I didn't have a Bosnian citizenship at that time, so we weren't able to register the marriage with the Bosnian government. I was living in Kuwait, so I was not concerned with getting a Bosnian citizenship.

The problem was that my wife got pregnant during the war. At that time, if your wife was pregnant and you did not have a Bosnian citizenship, the child would not be legitimate. They would register the child in the mother's name, not the father's. To me, this was important.

At the same time, how could I go to Kuwait at that time to register my wife and son there? I did not have any documents or paperwork with me. The only way to register my son, legitimately with my last name, was for me to become a citizen. Now, I had to obtain a Bosnian citizenship, and I had the right to do this because I was living in Bosnia, married to a Bosnian citizen.

We got in contact with people who said they were able to finish the paperwork for us. The paperwork I requested, translated and notarized, I gave to this man. He asked for 1,500 Deutschmarks for fees or taxes and 500 Deutschmarks for his time and labor. So, I gave it to him so he could continue. At that time, thank God, I was able to get my wife and go to Kuwait.

This should all be registered somewhere. The Kuwaitis brought this over to the interrogators. This paperwork said when I left and when I came back.

I returned, once again, in 1996 and the police asked me to meet with them, after the war had ended. I went to them and they said I had the right to citizenship. At that time, I wasn't really pleased or displeased; I just didn't have any objections. I took the paper and registered, but unfortunately they gave me the citizenship through the Bosnian Army.

You can verify this. If you look at everyone who came in after the war in 1998, 1999 and 2000, that's how most got their citizenships, through the Bosnian Army. The person doing the paperwork tricked them, like he tricked me. He took the 1500 Deutschmarks that I gave him and if they do it through the Bosnian Army, he doesn't need to pay a tax or a fee.

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The American government and the Bosnian government formed a committee to review these files, and I believe it was in 1999. They found that many of the people that got their citizenships at that time, got it the same way.

In truth, they never served in the Bosnian Army, but that's how they got their citizenship. It's all false certifications and that's what the interrogator was looking at when he was talking to me, saying that I was in the Mujahadin Brigade, the Bosnian Army, from 1992 to 1993.

That is false, and what proves that is that I was in Nebraska and Kuwait from 1992 to 1993. Or, I was in Zagreb, Croatia. Because I'm an Arab, it was easy for me to be registered in the Bosnian Army, in the Mujahadin Brigade. They would just take 200-500 Deutschmarks and register you under the Bosnian Army, like a bribe.

That is the truth, and I hope you take this into consideration. The Americans were in Bosnia and Kuwait and I never had any problems with them, or them against me. I was never on any "black lists," I was never wanted; no one was ever looking for me, until September 11th. But, after that, these points came up.

Personal Representative, is there something that I did not say?

Personal Representative: Point 3(a)7.

Detainee: Obviously, if point 3(a)6 is not true, then what does 3(a)7 have to do with me? In my entire life, I never went to Pakistan, not even for one day, so what do I have to do with any safehouse in Karachi? The Pakistani government must have given the Americans this information. I turned myself in on the Pakistani border between Afghanistan and Pakistan. I didn't go in or come out of Pakistan.

There's a point I was shown on the document from the White House [R-4]. What is against me in this document? I have reviewed it with my Personal Representative earlier and, thank God, neither my name nor the name of the committee I was on was on that list of names or organizations. I don't know why the Recorder presented this to the tribunal.

Tribunal President: We noted, as well, that your name and your organization were not listed here. At this point, we don't know why that other name is highlighted.

Detainee: What is in there that is against me?

Tribunal President: Classified information might link it together, but we don't know that at this point.

Detainee: I know there is nothing that links them together. Thank you for listening.

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Personal Representative: Would you like to explain what those four documents [the documents the Detainee requested, but the government was not able to produce] might have said?

Detainee: Obviously, it's clear that I requested these documents because I was going to Iran for a specific purpose and was intending to return. I took leave from my job for a month to go there and come back. Obviously, I wasn't going there to stay and fight with the Taliban or help the Taliban. I went there with \$10,000.

The other thing I requested was that I have seven years experience working with charity organizations in Zagreb and in Bosnia. The Kuwaiti government brought this information over when they met me personally. They told me that they have everything on me. They asked me many questions regarding the information I requested. Where did I work? When did I work? They met with me twice.

The third thing I requested was verification that my son was in the hospital, having heart surgery, so it was imperative I returned quickly. I was going for a specific purpose, and I had given a specific date for [my son's] operation in November, so I had to return quickly.

I think that the information in these documents would help me. I have experience working with charity organizations and that was my reason for going there.

Tribunal President: We may have some questions, but for now, does this conclude your statement?

Detainee: I hope this Tribunal is a fair one. I've already been classified as an enemy combatant but from what I know of the American justice system is that a person is innocent until they are proven guilty. Right now, I'm guilty trying to prove my innocence. This is something I haven't heard of in a justice system.

I hope that you look at this evidence and my statements with a fair mind. Don't look at, or take into consideration, my appearance or my clothes. I hope that the truth is just.

Personal Representative: I just want to clarify that when the Detainee was in Nebraska, he was at the University of Nebraska.

Tribunal President: We understand. We want to remind you [Detainee] that this is a non-judicial proceeding. It is an administrative, legal proceeding. We come here with an open mind to determine if you have been properly classified as an enemy combatant.

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Tribunal Members Questions to Detainee

- Q: Looking at the Affidavit your family completed on your behalf, you are an engineer by trade?
- A: I have a Bachelor's degree in Agriculture. In Kuwait they say Agricultural Engineering, but technically, it's not.
- Q: Did you work in this field after graduating?
- A: In Kuwait, yes, I worked with the Kuwaiti Institute of Scientific Research for about four months.
- Q: Your primary area of concentration was with charity work?
- A: My work with the Kuwaiti Institute of Scientific Research was difficult for me. I had just graduated and the work required a lot of research. Not difficult, but required a lot of work and long hours, you have to put a lot of effort into it. In 1993, the Bosnian dilemma came up. It was covered thoroughly in the media. At that time, many Kuwaiti charity organizations were working on the Bosnian issue. I wasn't working at that time; I was looking for another job. Truthfully, I was drawn to the Bosnians and the idea of charity work.
- I worked in Croatia from 1993 to 1994. In 1995, I worked with the Ministry of Labor and Social Affairs. We were working with the agricultural section of that ministry.
- Q: In 1993, when you first went to Croatia, was that organization already established, or did you help to establish it?
- A: No, it was already established. It was in Croatia, not Bosnia and the head of the committee was already there.
- Q: What duties did you have when you first started working?
- A: Because I was Kuwaiti, and the head of the committee was Kuwaiti, it was the two of us working with mostly Bosnians. Our work was concentrated mostly on refugees that were coming in from Bosnia.
- Q: What, specifically, were you asked to do?
- A: The orphans from Bosnia were coming in to a new place, so we would meet with them. We would do many things to make them more comfortable coming into this area. Just talking with them, saying kind words, giving them food, and

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paying for the houses they were staying in. We would give 50 Deutschmarks per month, per orphan. Things of that nature.

Q: You were in Croatia and then Bosnia from 1993 to 1999?

A: No, from mid 1994 until 1999 I was in Bosnia.

Q: All together.

A: All together from 1993 to 1999.

Q: What was the highest position you attained at this organization?

A: Assistant Director of this organization.

Q: So, basically, you were the #2 man there?

A: Considered as #1. There were only two of us Kuwaitis and it's a Kuwaiti organization, a Kuwaiti had to be in charge of it.

Q: That makes sense. In 1999, you finished your work with the Kuwaiti group?

A: Yes.

Q: Is it because the conflict in Bosnia ended, or because you wanted to find something else to do?

A: I was working with the Ministry of Social Affairs since 1995. In 1995, they transferred me to the Kuwaiti Joint Relief Committee, by special contract between the two organizations. The Ministry of Social Affairs and the Kuwaiti Joint Relief Committee had an administrative affair. This was an annual contract.

In 1995 the Americans came in and started helping people there, and also getting back to their own countries. So, people started working and things started moving on. There was no longer a need at that time for charity work.

So, in 1999 I finished working there. I did not renew the contract and went back to my work with the Ministry of Social Affairs.

Q: Was that your choice, or did the Kuwaiti government ask you to do that?

A: I would go to them, and if they needed me they would approve me working there, but if they didn't need me, they would not sign me.

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Q: The Unclassified Summary indicates there are possible links between the Kuwaiti Committee and Al Qaeda. I gather you don't know anything about that?

A: You don't have that with you. Where did you get that information? The terrorism list that you have, that committee is not listed on there. How did you get a possible link to Al Qaeda? Where did you get that from? They don't have an office in Afghanistan.

You didn't state this, about the committee, until after September 11th. Before that, there was no problem. If the American government knew this committee had any ties to Al Qaeda, the head of the committee would be here and anyone who worked with the committee would be here.

Now, unfortunately because I was brought from Afghanistan and I'm in Cuba, they're trying to try this Kuwaiti organization to Al Qaeda and it's not just. That is not fair. I was done with this Kuwaiti Joint Relief Committee in 1999 completely. Americans never had a problem with that committee, so why do you bring that now?

Q: At this point, we don't know, but it may have something to do with this gentlemen listed on the Executive Order, Mr. Yasin Al Qadi.

A: I don't know him. He never worked with us and he's not even the head of the department. I gave you the names of the Kuwaiti government. When they came here, they brought a list of the names of the people working, and that's not one.

Q: Before today, you've never heard that name?

A: No, by God, I do not know. Today, the Personal Representative showed me the document.

Q: 3(a)5 of the Unclassified Summary says you admitted to fleeing with others due to the "opposition" taking over the city. That's Kabul?

[The Detainee nodded affirmatively.]

Q: I think the implication is, that if you referred to the Northern Alliance as the "opposition," this implies you were sympathetic to those they were fighting against.

A: Northern Alliance, "opposition," that's what the media is saying. I don't have anything to do with the words. I didn't say "opposition," the media said the "opposition" was fighting against the Taliban. That's the truth.

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The Taliban was governing the country for six years. If I was concerned with them, I would have gone there, at least once.

Q: Regarding 3(a)6, where your name was supposedly on a document recovered in Karachi.

A: This is the first time I've read this. The interrogators never brought this up. Usually, when they get information, they show me so they can see my reaction is to that information. Truthfully, I don't know anything about this point.

I told you my theory about this point. Pakistanis were sympathetic to our situation, and you know what the situation was like at that time. They were leaking our names to the media so someone might get news of us to our families.

Did you find my passport or any documents? In the classified evidence, do you have anything like that? No. You didn't find that. Just a name like that? I don't have any explanation, except the one I gave you.

Q: The obvious concern is, that if this is true, then, for some reason, Al Qaeda knows who you are.

A: I don't know, like I said, this is the first time I've seen this. I don't have an explanation for that. It's just a name. If my name was known by Al Qaeda, I would have been on a "black list" and you would have known about me.

The problem is that you can write anything down and then form any explanation for it. Like 3(a)2, 3(a)3, and 3(a)4. You write down the fact, but then you form another explanation for that fact. That is not fair.

Q: The question we must answer for ourselves is, say you were not involved at all with Al Qaeda. Then, why would they care who you are?

A: Who?

Q: Senior Al Qaeda people, we presume.

A: I'm asking you a question. Since when has Al Qaeda been around? Since the 90's? Since that time, have I ever had any relationship with Al Qaeda? Have I ever transferred any money to them? You would know. The Americans would know. Did I ever go meet them in Afghanistan or Pakistan?

Just a name like that? I don't have an explanation for it, besides what I told you. This is something that I've heard from many of the Detainees here, as well.

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There was a Kuwaiti Detainee here who was 16 years old. I heard he was captured in Pakistan, and as soon as he was captured, his name was leaked to the press; people called his family right away and the Kuwaiti government intervened and brought him back.

Why won't you accept my explanation for this? Honestly, I never entered Pakistan at all. I'm sure the Pakistan government brought the information to the interrogators, whether I entered or didn't enter Pakistan.

- Q: In the Affidavit from your family, one of the questions asked was where you had traveled during your life. One of the responses they gave was "the countries he traveled to were the United States, Turkey, United Arab Emirates, Bosnia, Bahrain, Egypt, Saudi Arabia and Pakistan."
- A: Pakistan? No.
- Q: Is there, perhaps, a mistake there?
- A: I was captured in Pakistan. That's exactly what happened. They contacted my family and said "your son is present in Pakistan."
- Q: So, they were only referring to the fact that you were captured there?
- A: That's what I think. I haven't called my family or talked to them, but that's what I think.
- Q: The next part of the answer says, "In the United States, he attended university there and some vacations and in both Bosnia and Pakistan he did charity work."
- A: In Pakistan? I swear to God I did not go to Pakistan.
- Q: That's the only reason I thought you were there, because your family said this.
- A: I think, that since they knew I was captured in Pakistan, they were trying to help me in any way. I swear I did not go to Pakistan.
- Q: In 3(a)7, I think I understood you to say, you know nothing about the raid on the Karachi house, and obviously you were not there and you don't know anybody who was there.
- A: Right. If I had never entered Pakistan, how would I know anything about this point? They only put down 3(a)7 because it's related to 3(a)6.

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Q: In the first part of your statement, you mentioned after hearing the media reports there were 2 million refugees and you went to Iran and didn't see any refugees. Then you went from Iran to Afghanistan and that's where you found all the refugees?

A: That's the tough decision I had to make; should I go in or should I return? The decision was to go and see if there were really refugees there or not. Part of the decision was if the Iranians would allow me to proceed without any problem, then I would proceed.

At the same time, I was thinking about all the statements that were released from the Secretary of Defense and the military analysts, and from the news media.

The Americans went into Yugoslavia and captured the biggest dictator in the world, Milosevic, and people were still working. No one interfered with any charity organizations. The same thing in Bosnia; we were never subject to anything.

The fact that the Americans would not apply the Geneva Conventions to us; that they would capture us and bring us here, never did I expect this to happen. The UNHCR was there and there were other Christian organizations that were helping, and no one bothered them. I think that because I'm an Arab and I'm a Muslim, maybe that's why I'm here.

Q: So, no matter what you found in Afghanistan, whether it was better or worse than you thought, your plan was to only stay 1-½ months and then return to Kuwait?

A: When I took leave for 1 to 1 ½ months, that was just so I wouldn't be rushed. That was the longest period I would have stayed, but in reality, I expected my time in Iran to just be one to two weeks; just go in, look at the situation to see what was going on, and then return.

Q: But, you were going to distribute your funds and whatever else you had to the refugees, either directly or through some other group? How was that going to work?

A: Anyone that does charity work knows the first thing you do when you go to a country, whether it's Yugoslavia, Iran, Iraq, or any other country, the first thing you do is get permission from the government of that country to distribute whatever funds you have or to do charity work.

Truthfully, it's a matter of getting a document and permission that says that you have formed a charity organization or committee that was going to distribute the funds and that you have permission from the government to do so.

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After that, it's easy. You get permission and then you go meet with the refugees and determine what they need. Do they need food? Do they need money? You talk with them and find out exactly what they need. It's an expedited form of charity. You just quickly go, and get a quick overview of what the people need.

Q: That was my next question, because you obviously know how to do this from your experience with charity work, but that seems awfully ambitious to do all that in a week.

A: What's the problem? You go meet with the government officials; you get the permission from them. That takes a day or two. After that, you meet with the refugees or the orphans, distribute money, record their names, and that shouldn't take more than a day or two. I wasn't going there to lay my head down and sleep. That's charity work. I go in the morning and I come back at night. That was my work. That's how we worked in Zagreb and Bosnia; that was our job.

Q: It is not so much an observation on you, as on the Taliban government; in the middle of fighting a war, I didn't think they'd be that efficient.

A: The important thing is just to get approval; it can be orally. You don't have to get a written statement or anything, just as long as someone doesn't present any objections to what you want to do. It doesn't need to be a big production.

Q: How far were you able to advance your plan before things got difficult?

A: First of all, I made the wrong decision that brought me here to Cuba, by entering Afghanistan. I thought the Americans would not harm me, like they did not harm the people in Yugoslavia, and that was if they even entered the war. When I entered, Americans were not there at that time. There were no Americans; there was not a war.

I got to Kabul, and two days later, the Americans started bombing. At that time, I realized that my mission would be really difficult, and I decided to leave. I had to formulate an evacuation plan when the Americans started bombing.

Q: In two days, you weren't able to accomplish a whole lot?

A: There was nothing I could do. I went to Kabul and the next day, I was trying to find a place to stay. I was explaining that I worked in charity and was looking for an official from the Taliban to get the documents signed, with the approval I needed.

I couldn't communicate very well with them, just using sign language, so the owner of the restaurant helped me. He wrote something for me, [and] got me a

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taxi. I got in the taxi with the paper and went to a building where a Taliban official was.

I went to the 2nd or 3rd floor. No one spoke Arabic, just very, very basic Arabic. They saw that I was not Afghan, so they brought me to someone that spoke a little Arabic. I told him I was Kuwaiti and introduced myself. I told him I was looking for someone in the department for refugees and I wished to help the refugees.

They said that person was not there, but I could make an appointment for three days later. Who he was or where he was, I don't know. I said it wasn't a problem, but I need an interpreter to be with me. He said he'd try to find an interpreter for me.

For those two days, I couldn't really do anything. I was looking for a place to stay and looking for a translator. I was not able to do anything.

Then, the bombing happened, and that's why I couldn't do anything in those two days.

Q: At the time of your capture, you were still considered to be an employee of the government of Kuwait?

A: Right, with the Ministry of Social Affairs, because I had taken official leave.

Q: You brought up the situation with the young Kuwaiti detainee who was here. You said that once the Kuwaitis found out here, they immediately intervened and he was released...

A: Not here, not in Cuba. We heard here that he had been captured in Pakistan or somewhere else. He was either 15 or 16 years old. His name was leaked, like these names I'm telling you about and they contacted his family right away. I think his family went straight away to the Kuwaiti government.

Q: I was wondering, if you are with the Kuwaiti government, and Kuwait is an ally of the United States, why the Kuwaitis hadn't done the same for you.

A: I wish they had done that. We asked the Pakistanis to meet with people from the Kuwaiti embassy, but they turned us over to the Americans right away. They didn't allow us to talk to anyone. I don't know what they did. They sold us or there was an agreement. I don't know.

Q: When you went to Croatia to do charity work, did you have interpreters set up ahead of time?

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- A: We had a big office there, and when I arrived the office was already established. We had many employees working there at that time. They were officially registered with the government; everything was done already.
- Q: You knew there would be interpreters ahead of time and it wouldn't be a problem?
- A: Yes, the met me officially and introduced me to everyone. At that time I was a volunteer, not the Assistant Director.
- Q: To converse in the language, there would be people to help? Or, maybe you picked up some of the language after being there for so many years.
- A: No, the language was very...there were Bosnian interpreters to help us.
- Q: When you went to Iran and decided that the refugees weren't in Iran, and then you decided to go to Afghanistan, how did you know where to go in Afghanistan to find some refugees to help?
- A: Like I said, I was going towards the border and thought that if they let me go in, then I would go in. I was thinking that the refugees would go to the border close to Iran. I thought if they hadn't actually gone into Iran, they'd at least be close to the Iranian border.
- I went to the closest village and there was nothing there at all. No refugees whatsoever.
- Q: Excuse me if you said this before, but what city in Afghanistan were you in?
- A: Herat. From the airport, I took a plane from Herat into Kabul.
- Q: You said you stayed at the room on top of the restaurant. During your travels, was it ever required to use a safety deposit box to safeguard your money or to keep your passport? Did anyone indicate it was problematic and potentially dangerous to travel in Afghanistan?
- A: Do you mean during our flight or at the place we were staying? I stayed in three different places and was kicked out of them. Every ten days or so, they'd kick me out of the house, once the bombing started.
- Q: Every how many days?
- A: The first house, I stayed maybe a week or ten days and was then kicked out. The Americans were bombing at that time and the residents of the house were afraid because they had an Arab in the house with them. They were afraid the

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