

Summarized Sworn Detainee Statement

My Personal Representative previously showed me the Unclassified Summary. I informed him of what was wrong and what was right. I was shocked and surprised to see that some of the information in the summary had nothing to do with me. I can clarify which points are correct and which are not. But I do not remember each point.

The Tribunal President advised that the Personal Representative could assist the Detainee.

The Personal Representative stated he met with the Detainee on October 14, 2001, for approximately 70 minutes. During that interview, he went over each point of the unclassified evidence with the Detainee. The Personal Representative stated he would like to go over each of the points and recap the essence of the meeting he had with the Detainee, and give the Detainee the opportunity to elaborate if he wished.

The Personal Representative showed the Unclassified Summary to the Detainee and verified it is the same document the Detainee had seen before.

The Personal Representative addressed each point of the Unclassified Summary of Evidence. The Personal Representative advised that 3(a)(1) and 3(a)(2) will be addressed together.

- 3(a)(1) The Detainee is associated with Lashkar-e-Tayyiba and/or Jaish-e-Mohammed.
- 3(a)(2) Both Lashkar-e-Tayyiba and Jaish-e-Mohammed are know terrorist organizations that are based in Pakistan and have well-established ties to al Qaida.

The Detainee stated that some of the information is not true. He knew nothing of the Army of Mohamed (Jaish-e-Mohammed) until he arrived at Camp Delta. The Detainee did train with Lashkar-e-Tayyiba in the summer, but he was very young and did not know what these people were about. He did not know that they were terrorist organizations, and many young men go to train with them.

The Personal Representative asked the Detainee if he had anything to add.

No, that is good.

- 3(a)(3) During the summer of 2000, the Detainee traveled from Saudi Arabia to Lahore, Pakistan, to attend the al Aqsa military

training camp so he could learn to fight against the Northern Alliance.

Yes, this is true. The Detainee did go to train, but the Detainee was very young and he did not know anything about Afghanistan, the Taliban, or about the Northern Alliance or politics. The Detainee had no will to fight against the Northern Alliance.

Correct.

The Personal Representative asked the Detainee if he had anything to add.

No.

- **3(a)(4)** While at the al Aqsa military training camp, the Detainee received training in the use of the Kalashnikov rifle.

Yes, the Detainee admits this is true. His purpose was to go to train, not to fight.

Correct.

- **3(a)(5)** The Detainee traveled from Saudi Arabia to Afghanistan during June 2001 to fight against the Northern Alliance.

The Detainee stated this is not correct. He did not go there to fight the Northern Alliance. The Detainee stated he went to visit a relative in northern Afghanistan. He went there to bring the relative back to Saudi Arabia.

Yes.

The Detainee did not know that war would break out. The Detainee heard this relative was in the north and he went to find him. He is a relative, but not a first cousin. And it was his family's will that he be brought back to Saudi Arabia.

Yes.

It was very difficult traveling. When the Detainee asked his relative to come back, the relative stated he would think about it.

Yes.

The fighting began to worsen.

Yes.

The Detainee moved with a group of people down to Kandahar.

Yes.

The Detainee and these people were cornered, and then captured.

Yes.

The Personal Representative asked the Detainee if there is anything he would like to add.

The statement that I made before is correct. For my family, going there to bring my relative back was a humanitarian act. Since I was young, I've never liked problems. If I had known that I would have these problems by going there, I never would have gone. The situation was worse when I went, and this is what led to me come here.

- 3(b)(1) **The Detainee possessed a Kalashnikov rifle and was present on the front lines where he fought against coalition forces.**

The Detainee stated that this was not why he was in the north. I previously explained the reason was that he went to retrieve a relative.

Correct.

- 3(b)(2) **The Detainee participated in the Mazir-E-Sharif prison riot.**

That entire event was chaotic. People were killing other people. The Detainee just found a safe corner until it was over. The Detainee stated it was not a riot, but people were shooting the people in the prison.

Yes.

The Detainee also noted in our session that he traveled to Afghanistan prior to the September 11th attacks. He traveled during the June timeframe, before the attacks occurred.

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The Personal Representative asked the Detainee if there was anything further he would like to tell the Tribunal.

Only when it comes to my witness, but everything else is the same.

The Personal Representative advised the Tribunal that he has nothing else to add on behalf of the Detainee.

The Tribunal President advised the Detainee that he would have a chance to question the witness when he is present.

Questions for the Detainee by the Tribunal Members

Q: How old are you?

A: 26 years old.

Q: What did you do in Saudi Arabia before you went to Afghanistan?

A: I was studying in a University.

Q: Can you tell us about the Lashkar-e-Tayyiba group? What is this group and it's purpose?

A: Before, I did not have a purpose to go there. I had no previous knowledge about that group or their purpose. I heard that there was weapons training there, and a lot of young people like to train on weapons. It was just like a summer vacation. I did not know the purpose of their group or why they were there.

Q: Do they have a presence in Saudi Arabia or only Pakistan?

A: In Pakistan, but someone spoke about them.

Q: Someone in Saudi Arabia originally explained about the group to you?

A: Yes, (inaudible).

Q: This was not a religious leader of yours in Saudi Arabia?

A: No, not a religious person. Just a regular guy.

Q: Could you have received the training closer to home? Why was it necessary to go to Pakistan?

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A: We do not have training of that sort in my country. I also traveled with the Daawa people. I went to a lot of places with them. Being there, I decided to get training while in Daawa.

Q: These people went for religious reasons?

A: Yes, they are a religious group.

Q: What were you studying in school.

A: Art.

Q: Did you have a job or not?

A: When I finished the university, I would be able to get a teaching job.

Q: Was the trip to Pakistan expensive or did you have help paying for it?

A: A lot of Saudi citizens are in a good economic status and do not need help to travel. The university would also give me a monthly award.

Q: You went for the training and then you returned to Saudi Arabia?

A: Yes, I would travel with the Daawa people in the summer. This past summer I spent more time with them and returned late.

Q: It was the following summer you went to Afghanistan to retrieve your relative?

A: Yes.

Q: Was he in distress? What caused your family to ask you to go get him?

A: I met with his family, and they asked for someone to bring him back. They did not ask me in person, but they know that a lot of my relatives are not able to travel and are not familiar with those places. I had the idea to do them a favor and bring this person back to his family.

Q: Is he Saudi Arabian also?

A: Yes.

Q: Why was he in Afghanistan?

A: I do not know for sure.

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- Q: He was not someone you were close to?
- A: We know each other as family, even though there are no strong ties.
- Q: Did he know you were coming, or realize it when you showed up where he was?
- A: No, he did not know I was going to get him. But he was very surprised.
- Q: He hesitated when you said you were there to bring him back? He said he would think about it.
- A: Yes?
- Q: Was that his polite way of saying he did not want to go back?
- A: He said he would prepare himself before leaving.
- Q: What was he doing there?
- A: He was there with Arab people. I do not know exactly why he was there.
- Q: He was not involved in the civil war for one side or the other?
- A: I do not know for sure.
- Q: It seems he was in the north, which was the most dangerous place to be in Afghanistan at the time.
- A: I was not thinking of that at the time.
- Q: You were not concerned for your own safety while traveling there?
- A: It was not that important. The area I went to was very safe.
- Q: You said your relative was preparing to leave, but decided not to leave immediately. What happened after that?
- A: I requested to see him during that time. I tried to make him change his mind, to come with me. He said he would think about it and prepare himself. I told him if he wants to come back with me he has to decide within 2 days. I waited for his answer, but it was more than 10 days. I was asking anyone who was capable of getting to where he was, to ask him if he is coming or not so I can leave. The days were going fast, a lot of incidents happened and it was very difficult for me and difficult to travel. People told me to wait for the situation to improve before leaving. When the situation is better, it will be easier for me to leave. But things

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went from bad to worse. Soon we were surrounded and given to (the forces at) Mazir-E-Sharif.

Q: Why was he resistant to return with you if the conditions were deteriorating there?

A: I don't know. But I heard from others that he had problems in Saudi Arabia.

Q: You mean with the authorities?

A: Yes, that is what I think.

Q: How long were you in Afghanistan?

A: More than a year, but I don't know exactly. A long time.

Q: His family must have known he had problems with the authorities, but they still wanted him to come back?

A: Yes, they wanted him back. His brother is a high-ranking government official and would be able deal with them.

Q: Did your relative go to Afghanistan on his own free will or was he forced?

A: I don't know.

Q: He continues to not give you an answer, the situation deteriorates and eventually you are apprehended?

A: Yes.

Q: They took both of you to the Mazir-E-Sharif prison?

A: They told me he died in the north, so we didn't go together.

Q: Was that true or you don't know?

A: A lot of people have said that he is dead.

Q: We express our condolences for that.

A: Thank you.

Q: When you were detained, it was by the Northern Alliance soldiers?

A: (Yes) – by soldiers of Dostum.

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Q: Did you have anything with you at the time: money and passport?

A: Yes, I had my passport, money, and official paperwork.

Q: No weapons?

A: No.

Q: So they took you to prison and the shooting incident happened?

A: Yes.

Q: Guards shooting at prisoners, and maybe prisoners attacking guards, or what?

A: There were a lot of people, guards were shooting from every side.

Q: You were not injured?

A: No.

Q: Did you leave the prison at some point?

A: The place the incident happened?

Q: Please explain how you were released from prison. Were you released to the Americans, or did something else happen?

A: When the shooting occurred, I hid underground. I stayed there for days. There were people dying and starving to death during that time. After that, we were told to get out and no one would be killed. Me and the other people hiding underground got out. A lot of them were injured and Dostum's soldiers arrested us and put us in prison for about 20 days. Then the American forces took us.

Q: Have you seen your passport and money since it was taken from you?

A: No. I asked the interrogators if they had them here.

Q: What did they say?

A: They said they would look for them.

Q: You received training in Pakistan the year before you went to Afghanistan?

A: Yes.

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- Q: But when you went to Afghanistan you did not have any weapons?
- A: Yes.
- Q: No one asked you to fight for the Taliban?
- A: I was asked by some to fight, but I did not go there to fight. I did not want to fight there.
- Q: No one tried to force you to fight when you were in Afghanistan?
- A: No.
- Q: Did you say you do not know anything about the Army of Muhammad?
- A: Exactly, and I was surprised their name came up in my file.
- Q: You do not know if they have any presence in Pakistan like the other group?
- A: I do not know.
- Q: Initially, you stated that prior to your capture, you and a group of people were going to flee to Kandahar.
- A: People were saying it was better to go to Kandahar to get to Pakistan. So that is why I went with those people.
- Q: You were going with those people but never made it to the direction of Kandahar?
- A: We were on our way to Kandahar, but Mazir-E-Sharif happened.
- Q: Where were you staying in the Mazir-E-Sharif area?
- A: When we got to Mazir-E-Sharif we were taken to prison. We were moved to Kandahar, and then entered the prison and the riot started.
- Q: Where you were staying and where you were talking to your relative, how close was that to Mazir-E-Sharif?
- A: We walked for many hours before reaching Mazir-E-Sharif.
- Q: East, west, north?
- A: I don't know.

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- Q: You stated your relative was killed north of Mazir-E-Sharif.
- A: He was not killed in Mazir-E-Shariff. He was killed before we moved from the city in the north to Mazir-E-Sharif.
- Q: The reason I ask is that Mazir-E-Sharif is very close to the border and if you were north of that you would be out of the country.
- A: But it is very far from Kandahar.
- Q: I understand that. But the events you are describing are in the Mazir-E-Sharif area.
- A: Same city as Mazir-E-Sharif. We were in the city in the north, and Mazir-E-Sharif was on the road to get to the other city.
- Q: You mentioned that, while you traveled, you were with some religious people?
- A: Yes, the Daawa people. But they are known as a humanitarian society.
- Q: Are you a religious person?
- A: Not very religious.
- Q: During your travels, were you ever in a Taliban-controlled area?
- A: A lot of the Taliban cities were under the Taliban government, but they were not controlling the travelers, just like in Pakistan.
- Q: Where were you staying while waiting for your relative for several days? Where you at a hotel?
- A: I stayed in houses Arabs stayed in.
- Q: Did you pay for the houses?
- A: No.
- Q: They let you stay for free just because you are Arab?
- A: Yes. Do you want me to explain how I got to those houses?
- Q: Yes.

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A: In the beginning of summer, I went with the Daawa people there. I had a short time left before I had to go back to study. I thought this was enough time to meet my relative and go back. I spoke to the Daawa people in Pakistan and told them I was going there to meet my relative and bring him back. They said they would help me with this and took me to the border close to Pakistan. They said there is a city close to the border with a student guesthouse and I could stay there, and there are Arabs in the house to help me get where I am going. If I couldn't find anyone there to help me, they would find another way to help me. I found two Arabs at the house. I told them my relative's name asked them how to get to Afghanistan. They told me how, and that they would help me get there. They helped me get into Afghanistan and took me from one city to another until we were in the north. They took me to a house when we got to the north. I noticed a lot of Arabs going in and out, so I stayed there. They told me to stay at the house until my relative showed up.

Q: Did anyone at the houses suggest that you leave your passport with them?

A: In the first house, no one asked for anything. But, in another house, they said they would take them for safekeeping so it will not get stolen.

Q: And you said?

A: OK.

Q: You gave them your passport?

A: I was worried it would get stolen or lost.

Q: As you were traveling in the Taliban controlled areas, did anyone give you trouble for your appearance or actions being not a religious person, not having full beard or long hair?

A: No.

Q: In traveling and staying at the houses, did any of the Arabs have weapons?

A: Every once in a while, I would see someone with a weapon.

Q: Did you go through any training camps in Afghanistan? Not participate or to train, but just to go through?

A: No.

Q: What was the place your relative was at in Afghanistan?

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A: Konduz.

Q: How did you know he was there before you went to Afghanistan?

A: Two Arabs that I met on the Pakistani border told me.

Q: They knew your relative by name?

A: Yes.

Q: Before you left Saudi Arabia, you did not know where he was in Afghanistan?

A: Yes. I did not know exactly. I just knew he was in Afghanistan.

Q: Was that the place you finally met with your relative?

A: Yes, in the north of Afghanistan.

Q: Near Konduz?

A: Yes, in Konduz.

Q: How did you get separated?

A: I was at a house and came to visit, and he told me he would think and prepare himself and get ready. And when he did this he would come back.

Q: Then, the war intensified?

A: Yes.

Q: He was killed and never returned?

A: Yes.

Q: You ended up in Mazir-E-Sharif?

A: Yes.

Q: Is the witness someone that you knew before coming to this place?

A: I met him while traveling to the north. I don't remember the city. But I remember seeing him there.

Q: You remember seeing him in your travels and knew that he was here also?

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A: I saw him in the north, in the same cities I was in.

Q: He was traveling with you?

A: He was staying in the same houses as I was, and he was also in Mazir-E-Sharif.

Q: So you were going in the same directions?

A: Yes.

The Personal Representative called Yusef Rubeish.

Detainee's Questions to the Witness, Yusef Rubeish (ISN - 109)

The Witness, Yusef Rubeish, was sworn.

Q: I want to ask the witness if he remembers meeting me in northern Afghanistan.

A: Yes, I remember him.

Q: When I met him multiple times in Afghanistan, and I told him why I was there. If he remembers what I told him about why I was in Afghanistan, I would like him to say it.

A: I remember that the reason he told me he was in Afghanistan was to look for one of his relatives.

Q: I would like to ask him if he saw me carrying a weapon in Afghanistan.

A: No, you did not.

Q: You heard why I was there. Was I fighting against the Northern Alliance, American forces or the coalition?

A: No, I did not hear that you were there to fight. I did not see you fight. I know you were there to bring your relative back home.

Personal Representative Questions to the Witness, Yusef Rubeish (ISN - 109)

Q: When I met you, you did not immediately remember the name of the Detainee.

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A: Sometimes, names are not mentioned completely. It is difficult to recognize the person if I don't know the complete name. I mentioned this in our last meeting.

Q: You knew him, and saw him multiple times in Afghanistan?

A: In Afghanistan.

Q: How many times did you see him?

A: I don't remember.

Q: Many times or a few times?

A: I can't remember exactly. I wasn't feeling well at that time. I was sick.

Q: When I showed you a photograph, you did recognize the individual?

A: That is what happened.

Q: And you were cooperative and willing to help him out with your testimony?

A: That is what's happening.

Tribunal Member Questions to the Witness, Yusef Rubeish (ISN - 109)

Q: When is the last time you saw Al Utaybi?

A: What do you mean?

Q: Prior to coming here, when is the last time you saw him?

A: In north Afghanistan, (inaudible).

Q: Both of you were in prison together?

A: Yes.

Q: Both of you left prison and ended up here?

A: I do not know if we were together or separated. When I say together, it does not mean just he and I. We were part of a group.

Q: Prior to meeting him in Afghanistan, you did not know him?

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A: No.

Q: You knew that Muhammad Al Utaybi was looking for his relative. Did you know his relative?

A: No.

Q: Ever heard of his relative?

A: Not before, no.

Q: Just a total stranger?

A: Yes.

The witness was excused from the Tribunal room.

The Tribunal President asked the Detainee if he had any further information to present.

I do not have anything, but from reading the definition of an Enemy Combatant, there is no part of that definition that applies to me. Like I have said before, I do not want to be involved with people that are suspected terrorists. I would not want to be involved with a group like al Qaida and terrorist organizations. I was very surprised that they accused me of that. It was a total surprise, a shock. When I was in Afghanistan, and even before, I was not involved with anyone that are terrorists or suspects or criminals. My whole life, I never thought of hurting anyone. I just wanted to be an average person, live life normally. That is what I have now.

The Tribunal President advised the Detainee that everything he has said would be taken into consideration.

Can I add one more thing?

Tribunal President: Certainly.

The training that I went to was because I was a teenager. I was too young. As a juvenile, we never think of the dangers, or what happens in those situations. If I knew that it would lead to problems or dangerous things, I would not have been involved. I think the biggest mistake I have made in my life was going to train in Mazir-E-Sharif.

The Tribunal President asked the Personal Representative if he has any other information or witnesses to present to the Tribunal.

The Personal Representative asked the Detainee if he got his money and his passport back.

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Yes, they gave it back to me. But when I went to (inaudible), the soldiers took it from me and I still have not received it.

AUTHENTICATION

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



Colonel, U.S. Marine Corps
Tribunal President

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Summarized Sworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had a few comments during the administrative part.

Detainee: We have asked our great God that finally there is a tribunal. You are smart people and I have been hurt for the past 17 to 18 years; I could not get up and you brought me here as an enemy combatant. You think yourself how could I be an enemy combatant if I was not able to stand up?

Tribunal President: We have some administrative to go through here and there will be a place in the hearing for more comments. Bear with us. We look forward to hearing more about what you think about your status as an enemy combatant later.

Detainee: No problem I will not interfere again, but all I wanted to say was we were not against the government of Afghanistan and we are not the government of the United States. I would like to talk to you later, but right now I will not interfere. When I get the chance I would like to speak.

The Recorder presented Exhibits R-2 and R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

Detainee: May I speak now?

Tribunal President: No, not yet.

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

Tribunal President: I understand that you requested the presence for testimony of three witnesses and an affidavit from another government's official. At this time I will review the availability of testimony of these four people. First witness you requested was that of your son, is that correct?

Detainee: Yes, that is correct.

Tribunal President: I have determined that your son is not able to attend today's session, but I have been able to obtain the testimony through alternative means. I have directed, and Personal Representative has attained the statements from your son regarding the requested testimony today.

Detainee: Very good.

Tribunal President: At this time I would like the Personal Representative to present that testimony for the record.

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Personal Representative: I am presenting the Tribunal the testimony of the detainee's son as Exhibit D-B.

Tribunal President: At this time please read the testimony for the record.

Unsworn Witness Statement: ISN 977

My father was with Mugagide when I was a little boy during the Russian invasion. At that time there were a lot of disputes and he was forced to join the HIG. My father had a stroke about 15-17 years ago. Because of his stroke he lost the ability to walk and was very ill. Because of this, he left behind everything and stayed home and was not involved with the HIG after that and was not involved in anything.

After the Russians were defeated in Afghanistan, there was civil war and a lot of fighting among groups of people in Afghanistan. Because of this, there are a lot of enemies after the Russian war and we had civil war fighting. Our enemies used different tactics by lying about their enemies and the Americans are believing these lies and putting us in prison.

For a year and a half before I was captured, the defense ministry and the interior ministry gathered up all the heavy weapons and turned them in. They collected all the light weapons from the people and put them in a warehouse to be turned over at a later time. Rahim Wardak who was working for the government hired me and put me in charge of guarding the weapons and maintaining control of them for the government. The government provided me with 50 people to guard the weapons and the government paid these people to guard the weapons. All of this area belonged to the government. Everyday they give pay, money, and food to guard the weapons and then the American soldier arrested me. After 25 days, they arrested my father.

When I was arrested, my father went to see Kazai to get my release but was captured before he could.

I know 100% that the Tajik people provided wrong information about us, we have no problems with Americans. The Tajik people have a dispute with the Pastoons. I am Pastoon. I am 100% certain that the Tajik people provided false information resulting in my arrest and my fathers arrest.

If anyone can provide any proof that I did anything against the Kazai government, or American soldiers, I would take the worst punishment.

My father is a sick, old man and cannot even move around. The only times he goes out is to see the doctor, how could he possibly be guilty of any allegations.

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All allegations are nothing but a personal dispute with our personal enemies and are not true.

Rahim Wardak tried to get my release but was not successful. He told my father he would work hard to get me release but the power belongs to the Tajik people and Qardak is not Tajik.

I was with the HIG until 1996 then after that I had no connection with the HIG.

Personal Representative: That is the end of the statement.

Tribunal President: (Directed to the Detainee) In a short while you will have the opportunity to add anything you would like to your son statement.

Detainee: May I now?

Tribunal President: I would like to address the other witness requests you have. The second witness you asked for was identified as Engineer Wasil. I directed that the Personal Representative, with the assistance of the recorder, attempt to locate him.

Detainee: Engineer Wasil, I'll take your word ok. I didn't want him that is because he punished us.

Tribunal President: I understand, and I think you already know that we were unable to locate him and so he is unavailable to us today.

Detainee: What can I tell you? I will speak to you later when it is my time.

Tribunal President: The next witness you requested was Hamdulla. This individual is also not available to us today.

Detainee: No problem.

Tribunal President: The affidavit you requested was from Rahim Wardak. About a month ago on or about 29 October, I requested the United States government contact the Afghanistan government from Rahim Wardak as of today the Afghan government has not responded to our request. Without the cooperation of the Afghan government I am unable to provide any testimony to us today. My ruling as the President is that testimony is not reasonably available for this witness either.

Tribunal President: You may now present any evidence you have to the Tribunal your Personal Representative may assist you if you wish. Before you start I would like to ask you, would you like to make your statement under oath?

Detainee: Is this necessary? If you think that I am charged unlawfully. I will be able to swear to you, but if it is not necessary I don't want to swear.

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Tribunal President: The oath is your choice to make.

Detainee: If you are accusing some wrongdoing, I will be able to swear in Islamic way. If you are not accusing me of wrongdoing I don't find it necessary.

Tribunal President: Let me review one thing with you. This panel knows nothing of your record except what we heard today. This panel is not accusing you of anything. We are here to review information to see if you are properly classified as an enemy combatant. What we have heard today is the unclassified evidence of what the government believes classifies you as an enemy combatant. It would be very helpful to this panel to hear anything you would like to say regarding this information. An oath is a promise to tell the truth, but we don't require you to take an oath it is your decision.

Detainee: I swear from now on anything I tell you will be the truth, I didn't provide the wrong information and I will not provide wrong information to you any more. Lying is against my religion; I am very close to my grave at this age I will not lie to you in any matter.

Tribunal President: Very well you may proceed with your statement.

The Detainee took an Arabic verse of Koran oath of his own.

Detainee: In the beginning when the fighting began in Afghanistan I was with Hazarat with few weapons in hand. At the time you American were helping the Jardin HIG Matar and you were providing them with weapons. Unfortunately he can and took over all of our areas. When the time that he can from Charasia Kabul to Sarobi area in Jalalabad Area, believe in God and believe me that at that time I was there in my home. When President Nagec was in power; at that time I got sick. I am not the only one that will say this to you, but many others Afghan will tell you that we are very happy with United States of America that at the time of the war against the Russians you provided us with a lot of help. When the Taliban oppressive forces arrived in Afghanistan, and the American came to Afghanistan to defeat them the people of Afghanistan were very happy that we were going to received help from the United States. Unfortunately you are going over there and capturing us and bringing us over here. I will tell you that one thing that from a long time the Afghan people have artillery pieces and also weapons in their possession. When the American forces arrived to Afghanistan they gathered all the weapons from the wrong hands. Basically the American forces took the weapons from the wrong hands so they could not kill the Americans nor their own enemies from the area. I request that you pay attention to me in this matter. After 21 or 22 months that I have been here this is the first time I am in front of the Tribunal, please in two weeks let me know if I am an enemy combatant or not. Did I ever fire upon you or not. I am surprised that those wrongly accusing people are playing with you, they are giving you wrong information and they are against you. When you accused me of the HIG forces of having a plan to attack to United States forces and its' Allies to free Nazrat and Izat, then why didn't they arrest the individual who wanted to attack you, why didn't you capture

him? The weapon that you accused me of having at my compound they belonged to the Defense Ministry of Afghanistan. The weapons I told many other interrogators that they belonged to the government they had nothing to do with us. We have a good relationship with the Americans and they are trying to bring a bad relationship between the Pastian and the Americans in the Area. I swear to the great Allah, I didn't swear earlier but I am swearing now. I swear to my grey beard that any body prove these wrong accusations against me I will allow you to sacrifice all my children. I don't know why those oppressors are trying to oppress us.

Personal Representative: Would you like me to read the statement that you gave me then I will read the questions?

Detainee: Please Sir, you are allowed do anything you want. I would like to thank the leaders that are listening to me. Please forgive me if I talk too much and all the above.

Personal Representative: I can go to the allegations or I can read what you told me.

Detainee: Please read one by one so that I can individually answer all the questions.

Personal Representative: I don't need to read his statement, since he covered most of it.

Detainee: Very good, read one by one.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The Personal Representative also responses that the detainee forgot to mention. The allegations appear in italics, below.

3.a.1. The detainee was a local commander in the HIG.

Detainee: I told you previously I was the commander for Hazrat. I didn't work for them but they captured our area.

Personal Representative: So you are saying that you are not the commander for HIG?

Detainee: No.

3.a.2. The detainee was a primary coordinator for the HIG in Sarobi, Afghanistan.

Detainee: This is not right for you to listen to the wrong accusation. The person who wrongly accused me of this, please bring him and make him face me in this tribunal.

3.a.3. HIG leadership reportedly had a plot to kidnap one or more coalition force members to use as hostages in exchange for arrested HIG leader HIG leader Haji Nazrat Khan (detainee) and his son Izat.

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Detainee: For God sakes why are you listening to these wrongly accusations, if they had such a plan to do that why didn't they do it? The individual who told you all these accusations bring him here so that I can ask him, when was I with the HIG.

3.a.4. The HIG is an active terrorist organization in Afghanistan with long established ties to Usama Bin Laden.

Detainee: It is not up to me I don't care about them, what should I do about it.

3.b.1. Large caches of weapons were recovered from the compound where detainee lived, including 107MM rocket launchers, PKM's, AK-47's and uniforms.

Detainee: Believe in Allah and in God that I have told you many times, that yes I had these weapons in my possession but I told you that they belonged to the government of Afghanistan and I had all of the numbers. Because of the security of these weapons the government of Afghanistan provided my son with 50 individual to guard the weapons with salary and food. A few days before our capture 3 Americans/ 3 Coalition forces came to my area and asked my son will he be able to go with them to the University? My son told them why not I will go with you. You are smart people, you think the people who have these kind of weapons who are against you or against the government of Afghanistan would they live in the same are so you can come catch them, come on you are smarter than that. I was living away from my sons' compound where the weapons were found; but then when I knew my son was captured 3 days later. I went to my sons' house to take care of my grandkids. A few days later I wanted to go to Kabul to be able to release my son. I couldn't go and then it was one early morning, the sun was up when your forces arrived and captured me. First I have a request from God, after God I have a request from you to pay attention to my case, how can I be an enemy combatant? Afghanistan people have good memories of you so please don't get mad I want to tell you something. When you helped us to defeat the Russians, while we defeated the Russians you didn't help us you turned your back to us and left. Afghanistan people are like your kids, you don't leave your kids and turn away from them. You are our leaders I am very old and I would like my son to bring me a glass of water.

Tribunal President: I can pass this request on; it is not in my power as a Tribunal President to grant this request. I believe the Personal Representative has one more thing to provide.

Detainee: Please.

3.b.2. At the time of detainee's captured, the HIG was conducting surveillance and planning rocket attacks against US forces in the area.

Detainee: Then why didn't the attack happen? First the attack didn't happen and that is not up to me. I didn't fire, my son didn't fire we were not against the American we were trying to help the Americans.

Personal Representative: There are a few things that I wanted to remind you of.

Detainee: Please.

Personal Representative: You said you were at your son's house when you were captured, and you live 30 kilometers away from your son's house.

Detainee: Yes, it is like that.

Personal Representative: You were taking care of your grandkids at your son's house when you were arrested.

Detainee: I told you previously that this is correct.

Personal Representative: That the weapons were located at your son's house.

Detainee: Yes, my son probable told you they were at his house.

Personal Representative: But, they belonged to the Ministry of Defense for the country.

Detainee: Yes, they belonged to the Defense Ministry.

Personal Representative: After years of fighting you acquired enemies; and your enemies handed you over.

Detainee: Why Yes, Basically we have good memories against the United States of America we don't have bad memories against the United States of America so I could use the bad things against you. One thing I am mad inside about that I spent so much time and no one spent time on my case.

Personal Representative: The last thing that you wanted me to bring up, is that you have been in bed for the past 17 years and that you are sick and can't even get up.

Detainee: This is the most obvious, yes any time I needed to go to the doctor I went.

Tribunal President: Does that conclude your statement?

Detainee: I don't tell you what to do that is up to you.

The Personal Representative had no further questions and the Recorder had one clarifying question.

Recorder: I understand that the witness statement was already entered into evidence, is that correct?

Tribunal President: Yes that is correct.

Recorder: It seems that since the witness is not here, I have a question for the Personal Representative. Was the affidavit or sworn statement sworn under oath or not under oath.

Personal Representative: It was not sworn under oath.

Tribunal President: Thanks for the clarification.

Tribunal Members' Questions

Q. How long were you at your son's house before you were captured?

A. When my son was captured three days later I knew about it and I left my house to go to his house. A few days later, I left my sons house and went to Kabul I met with the defense minister and our defense minister contacted your embassy. I then left Kabul and went to Sarobi and that is were I was captured.

Q. Sarobi is where you live and not your son?

A. My son was living in Sarobi; I was away from there. For a few days I was at my son's house.

Q. You went to Kabul and then went back to your son's house?

A. Yes.

Q. Then you were captured at your son's house?

A. Yes.

Q. Did you have weapons at your house?

A. No.

Q. They were your son's weapons, not yours. You were only staying at your son's house?

A. They were not mine personal weapons or my son's personal weapons. They belonged to the government the government told us any time we need you to surrender your weapons you surrender and in the future if we have a job for you. You give the weapons to the people we appoint for you.

Q. These weapons were guarded by 50 people at the time of your arrest. Were any of them there and did any of them resist?

A. They were around the area but we didn't have a plan to fight. My son when he was captured told the government officials that we have weapons inside his house he was taking care of the weapons.

Q. You were forced a long time ago to join HIG?

A. I will give you an example, Right now President Karzai is the leader of Afghanistan there are people like him and dislike him. They have to be with Karzai cause he is the

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President. It means the area that we were under control we had to go with the government with the most power.

Q. You had personal enemies; can you give us their names?

A. This is not necessary because I don't know who told you exactly who wrongly accused me in front of you. I leave it to God; God will punish them.

Tribunal President: Do you have any other evidence to present to this Tribunal? ...
Actually we have one more follow up question (from a Tribunal Member).

Q: Were any of the guards who were being paid by the government arrested?

A: No; nobody was arrested.

Q: Just you and your son?

A: Yes. Nobody told me anything.

Tribunal President: I'll ask you again; do you have any other evidence to present to this Tribunal?

Detainee: This is the end of my statement. You are leaders here, and you are all leaders in Afghanistan; I have hope that you do whatever is necessary to decide if I am an enemy combatant or not. I believe that is my son's request so he could be close to me.

Tribunal President: We understand.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the Tribunal.

AUTHENTICATION

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


Colonel, USAF
Tribunal President

Detainee 977 testimony on behalf of his father Detainee 1009

My father was with the Mugagide when I was a little boy during the Russian invasion. At that time there were a lot of disputes and he was forced to join the HIG. My father had a stroke about 15-17 years ago. Because of his stroke he lost the ability to walk and was very ill. Because of this, he left behind everything and stayed home and was not involved with the HIG after that and was not involved in anything.

After the Russians were defeated in Afghanistan, there was civil war and a lot of fighting among groups of people in Afghanistan. Because of this, there are a lot of enemies after the Russian war and we had civil war fighting. Our enemies use different tactics by lying about their enemies and the Americans are believing these lies and putting us in prison.

For a year and a half before I was captured, the defense ministry and the interior ministry gathered up all the heavy weapons and turned them in. They collected all the light weapons from the people and put them in a warehouse to be turned over at a later time. Rahim Wardak who was working for the government hired me and put me in charge of guarding the weapons and maintaining control of them for the government. All the serial numbers were recorded with the government. The government provided me with 50 people to guard the weapons and the government paid these people to guard the weapons. All of this area belonged to the government. Everyday they give pay, money, and food to guard the weapons and then the American soldiers arrested me. After 25 days, they arrested my father.

When I was arrested, my father went to see Kazai to get my release but was captured before he could.

I know 100% that the Tajik people provided wrong information about us, we have no problems with Americans. The Tajik people have a dispute with the Pastoons. I am Pastoon. I am 100% certain that the Tajik people provided false information resulting in my arrest and my fathers arrest.

If anyone can provide any proof that I did anything against the Kazai government, or American soldiers, I would take the worst punishment.

My father is a sick, old man and cannot even move around. The only times he goes out is to see the doctor, how could he possibly be guilty of any allegations.

All allegations are nothing but a personal dispute with our personal enemies and are not true.

Rahim Wardak tried to get my release but was not successful. He told my father he would work hard to get me released but the power belongs to the Tajik people and Wardak is not Tajik.

I was with the HIG until 1996 then after that I had no connection with the HIG.

Exhibit D-b

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Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Recorder presented Exhibits R-2 and R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: I see by the Detainee Election Form that you have elected to participate today as evidenced by your being here. I also see that you wish to make an oral statement, which we will provide you that opportunity in just a minute. Additionally, I see you requested three witnesses, two of which the Tribunal approved. Basically, these two witnesses we deemed relevant to your status as an Enemy Combatant. The Department of State was contacted on the ninth of November with follow up attempts on the 22nd and the 30th of November. As of today the Department of State has received no response from Afghanistan as to the status of these witness requests. Therefore, I have made the determination that based on the attempt to contact and the lack of response that the witnesses are not reasonably available. I will tell you however if the witness testimony becomes available at a later time, we will make a decision whether to reopen your case or not.

Tribunal President: Zahir Shah, you may now present any evidence you have to the Tribunal and you have assistance of your Personal Representative in doing so. Do you wish to present information to this Tribunal and would you like to make your statement under oath?

Detainee: Yes.

Tribunal President: Recorder, would you please administer the oath?

The Recorder administered the Muslim oath to the Detainee.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

Personal Representative: I'll read each allegation and then you will have time to respond to it as you wish.

Detainee: Okay.

3.a.1. The Detainee is a citizen of Afghanistan and identified as a Hizb-I Islamic (HIG) member, possible as a Deputy Commander.

Detainee: The name of Hizb-I Islamic, I heard for the first time in Bagram when the interrogator was asking me about it. The second time was here in Cuba when they were asking me about this group. In my life, I have never been a member of that group, I did not know anything about that group, and whoever told them, it was a lie. They do not have any proof on me being a member of that group because I don't know of such a group. The only thing I did in Afghanistan was farming. Other than that I did not do anything else in the country.

3.a.2. The Detainee admits to keeping a Kalashnikov type weapon in his home.

Detainee: Yes, I do have a Kalashnikov in my house. It was government issued so the government knew about it. I did give the name of the person who gave it to me. His name was Commander Samil (ph). When he died his brother became the Commander, he knew about it. When the new government came, the Karzai government, they knew about it because you have to report to the government how many guns you have in your possession and give them the numbers. I was keeping it for my personal safety because we do have enemies in our area.

3.a.3. The Detainee was captured in his home in Afghanistan by United States forces conducting Weapons Cache Recovery Operations.

Detainee: I was in my house in Afghanistan and the American forces, I don't what they were doing or why they were there, came to my house and wanted to search it. I let them in and they saw those weapons hanging on the wall and they got them. They asked me to search the rooms in the house and they wanted the keys for all the boxes in the house. I went and got the keys, which actually in the fifth accusation you say that I had the keys to all the buildings in the compound. I went and got those keys from the females. They opened each box and there were only female clothes in the boxes. They searched the whole house and did not find anything else.

3.a.4. Weapons including AK-47s, RPGs, and a 107mm recoilless rifle were discovered in Detainee's home by the United States forces.

Detainee: They did not find any RPGs in my house. I don't know who said that. It's a lie and I'm sure they did not find anything in my house like that. There were two AK-47s, which were hanging on the wall. I told them that I got them from the Commander and that

the government knew about them. They did find my BB gun, which I use for hunting and a shotgun and they found my old antique gun that didn't even fire. So they found those other three guns that I had paid for because it's my hobby. These were my personal belongings and never in Afghanistan were these weapons on the list of weapons that the government didn't want people to keep. Everyone has these guns. People buy them in the street or at the bazaar or any kind of store. So these weren't actually weapons nobody has and they had never seen them. They were my personal property, I paid for them, and I want them back. If they cannot give me the weapons, I want the money for them.

3.a.5. The Detainee had keys to all the buildings in the compound.

Detainee: Those keys were for the house. I have rooms and each room has a box where the kids and the females keep their clothing and they keep them locked. They wanted to search those boxes and asked if I had the keys to open them. I went to the females and got the keys for each box and opened each one. They didn't find anything else. There were only female clothes. In the country it's bad for the people to go and search the female boxes of clothes. Even in the Russian's time they never did that type of thing but the Americans want to search them. I said no problem and opened them. After the search the handcuffed me and took me to Bagram. I asked them what I did wrong or what did they find that made them put me in prison. I never got an answer. The only thing they got were the weapons that were hanging on the wall, which I told them about.

Personal Representative: Zahir, is there anything else you would like to tell the Tribunal about?

Detainee: First of all I want to talk about the weapons that they took from my house, which I paid for. One was an antique and the other was for hunting. They were allowed at that time in the country and they are still allowed. I'm sure the government hasn't issued a ban on such weapons. I paid for it and they took it and I want it. If they cannot give me the weapons, because they got lost somewhere, then I want the money for them because they were my personal property. Next, I want to tell you why I think I was captured. I think they captured me because they had wrong information because we do have a personal dispute in the area. There were two people that fought in village and my brother was a middleman and he paid to release one of these people. He owed him some money. In the end he said the person finally went to the new government and got a job as a soldier and asked my brother for the money and my brother could not pay him. So he told my brother that he would do bad things to him and that he would make sure that he made problems for him through the Americans. He would say something bad to the Americans about him. I'm sure this is the problem but actually made something on my family because at the end when the Americans showed up at my house, my brother still owed seven thousand Afghani. So we think that maybe this is the person who the false statement to the Americans causing this trouble. In Bagram I asked the interrogator if that was the person who gave him the wrong information but he didn't give me an answer. I asked them in Bagram what I had done wrong because you can go to my village where they know me and know that I have never done any things like what you say I have done. You can ask any person and they will testify that I'm not that kind of person. They never gave me an

answer and brought me to Cuba. I told the interrogator here in Cuba about the two people who were fighting and asked if either of them gave information about me. The interrogator actually said that one was Abdulla Kafar (ph) and the second person was Kauliki (ph). She told me that they do have information from Kauliki (ph) and that he said something about me that lead to my being captured.

Tribunal President: Does that conclude your statement?

Detainee: That's all I was going to say and I don't have anything else to say. If anyone has questions, I can answer.

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

Personal Representative: Yes ma'am just two.

Personal Representative's questions

Q. The Kalashnikovs how long had you had the Kalashnikov?

A. Around ten years, maybe more than that. We do have enemies in the tribe and we were keeping those for our personal safety.

Q. You said Commander Samil (ph) is the one who have you those Kalashnikovs?

A. Commander Samil (ph) gave them to my brother and since we live together they were in the house with me for a long time. The commander gave them to us for our personal safety and than he died so we went to his brother and told him about the weapons to see he wanted them back and he said to keep them for our personal safety. When the Karzai government came I asked him again should we go and tell the new government because you have to report and they were looking to see who had AK-47s in their houses. He gave me the name of the person who was in charge in the area so I could report to him. I went to that person and I told his brother that we had two AK-47s in our house and he no problem and to keep it for our personal safety.

Q. What was the brother's name?

A. Noorullah (ph) was in charge when I got captured. The government made him in charge of security.

Q. Noorullah (ph) was that one of the witnesses that you had originally requested?

A. Yes I requested him. I told my Personal Representative that he knew about it because we reported it.

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Q. The person who gave your brother the AK-47, you say his name was Samil and that he was dead. Who was Samil's brother?

A. Sakadat (ph).

Q. That was another witness that you requested, is that right?

A. Yes. Just because of the weapons. My Personal Representative asked me whose weapons they were. I said that these are the people who can come and testify.

Personal Representative: That's all the questions I have Madame President.

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

Recorder: No ma'am.

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

Tribunal Member's questions

Q. You are a native of Afghanistan?

A. Yes.

Q. Have you ever left Afghanistan?

A. I spent all of my life in Afghanistan. One time under the Taliban government I was trying to go Iran because there was no work. I went with the smugglers through the "Back door." The Iranian government captured us and sent back to our country. After that I decided not to go anywhere else and stayed in Afghanistan the whole time. The Americans asked me to tell the truth and not to lie and that's why I told them about this trip. Nobody knew about it. I told them that I had been living in Jalalabad, which is a city of Afghanistan. I told them the truth about where I have the whole time and I'm thinking that's the reason I'm here, for telling the truth. Otherwise, if I had lied in the first place they would have sent me home. But I didn't want to lie. I told the truth that time and I'm telling the truth now.

Q. You seem like a smart man. What's the highest grade level you've completed?

A. I don't know if I look like a smart man but I'm not. I've been to school. I don't even know how to write. In Cuba, I'm learning how to read the Koran. I'm trying to learn how to read my name and letters. I've never been to school.

Q. Did you do anything besides farming?

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- A. The only thing I did was farming. On the side I'd do some labor like building rooms. Mostly I was a farmer.
- Q. How many rooms in your house?
- A. I had to count to remember because it's been a long time but there were 12. Maybe more or less now, and I'm only counting the rooms and not the bathroom or shower.
- Q. How long had you lived there?
- A. We lived in the village and there wasn't enough room in that house so we moved from the village to live outside of it. I don't remember but my father was telling me that it was about 10 or 20 years that we had been in that house. In the house before, where there wasn't enough room, we keep forever because my father built that house.
- Q. Just prior to your capture, how many people lived in that house?
- A. We all lived together. My six brothers and my parents all live in the same house.
- Q. So how many people total?
- A. It's hard to tell because I have six brothers and they all were married. Just 14 are elders, six brothers and their wives and my parents and each one has kids and I don't even remember their names any more.
- Q. When you say that you had fighting others in that area, did you mean fighting them using weapons? You had an enemy in that area. Who had you been fighting?
- A. It's about 20 years old. This dispute was with my cousin who lives far away. His uncle killed one of his family members and he killed his uncle. That's why we didn't like them. They were always getting guns to protect their family and we were just protecting our family from each other.
- Q. In your lifetime, have you used a Kalashnikov or another weapon against somebody?
- A. No. Those are the only two people who got killed in the dispute in the beginning. After that no one else was killed on either side. So I never shot anyone and nobody shot at us. The only thing I did was hunting with my BB gun. Because the tribe elders got together and talked with both families and that's why for ten years we have not fired at each other but we are still protecting ourselves from each other.
- Q. In the 10 to 12 years you lived in that house, did you ever see anyone bring an RPG in there?

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A. No. What are we going to do with RPGs?

Q. What was Commander Samil a commander of?

A. Samil, is my brother's friend and he's not living in my area or district. He was living in his own separate province. My brother has a friendship with him and he was the commander at that time. That's why he gave the weapons to my brother. It's been almost six or seven years since he died. Personally, I don't know him but my brother was his friend.

Q. Was he a commander for the Taliban?

A. No, he wasn't Taliban. He was some other party, Jamat (ph) which was like (inaudible) Northern Alliance commander. It wasn't with the Taliban. It's been a long time and we didn't have a friendship. I didn't know him personally. My brother knew him so I don't really know what he was doing.

Tribunal President's questions

Q. Can you tell us when you were captured?

A. I don't know the day or year because we don't track the days and years. But it was lunchtime and we were eating lunch, when the Americans came to the house. It was the daytime and we were eating lunch.

Q. Okay, let's approach this from a different angle. How long have you been here?

A. I don't know exactly how long I've been here but this was just my second Ramadan in Cuba, which was a month and a half ago.

Q. What did you farm on your farm?

A. We grew wheat, corn, vegetables, and watermelons.

Q. What did you do with what you produced on your farm?

A. The wheat we were growing for ourselves. But the vegetables and fruit we were selling those because people would come from other areas to buy it.

Q. Would they come to you or did you take them to the market?

A. They would come and buy it on the spot.

Q. Did you have any association at all with any humanitarian organizations?

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A. What kind of organization? Like a U.N. organization?

Q. Any kind of humanitarian organization that helped other people.

A. No, I've never been a member of a group like that and nobody ever came to me given me any information.

Q. Okay, how about political parties? Did you belong to any political parties?

A. No, I don't know any political parties. I was just a farmer and plus I'm not educated so I don't know how to talk and meet with people. Here in Cuba people have taught me how to pray right. Back home I was doing farming and that was it.

Q. How did you feel about the new government?

A. We were happy for the new government because they were rebuilding and there was peace. We were tired of all those things before so we were happy for it. It's just that somebody gave the wrong information to the Americans and I've been here the whole time and I don't know what's going on in the country now.

Q. What about your brothers? Did they all feel pretty much like you did or did some of them not like what was going on?

A. They were all happy for it also. Plus the people that were not happy with the government left the area. We were happy and we stayed in the village.

Tribunal President: I want to thank you for participating in this Tribunal today. Zahir Shah, do you have any other thing that you would like to present to this Tribunal today?

Detainee: The only concern I have is about those personal belongings, those weapons that I paid for and they took from me. I'm sure they will send me home one day but when I go home, will I get those back? If I'm not getting them back then I want the money back for those weapons.

Tribunal President: I don't have an answer for that. I'm assuming that you will have to take that up them when that time does come.

Detainee: Who should I ask then?

Tribunal President: I assume you can raise the questions to the people here. Not knowing the particulars, I can't help with where that's going to come from.

Detainee: People were saying that you could ask the Tribunal if you have any questions or problems.

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Tribunal President: Unfortunately, the only question that we're involved with is the question of your enemy combatant status. Everything else outside of that unfortunately we don't have an answer to.

Detainee: Okay. If you can't help me then I will wait and see and ask somebody else at the time when I'm going home if they can help. If not I'll just forget about it.

The Tribunal President confirmed with the Personal Representative that he had no further evidence and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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Summarized Sworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

Detainee: I will tell the truth and nothing but the truth.

Tribunal President: That did not sound like a question. Do you have a question about what we are doing here today?

Detainee: Tribunal.

The Tribunal President concluded from the detainee's response that he understood he was attending a tribunal and did not ask a specific question about the tribunal process. The proceedings continued. The Recorder presented Exhibits R-1 thru R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

Tribunal President: I would like to clarify that the unclassified summary says "AMF," and I understand that means the post-Taliban Afghan Military Force (AMF). For the record AMF is considered a coalition partner of the US.

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Detainee did take the Muslim oath.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The allegations appear in italics, below.

3.a. The detainee committed a belligerent act or supported hostilities against the United States and its coalition partners

3.a.1. The detainee was captured in the Khowst Province, Afghanistan.

Detainee: Yes it was my brother and I. We lost our herd of goats, he was looking through his binoculars, they captured him and after I walked through to find the goats they captured me.

3.a.2. The detainee was arrested within 500 meters of the site of an Improvised Explosive Device (IED) attack on a patrol.

Detainee: I never heard, I never saw, I never did.

3.a.3. The detainee is a known Anti-Coalition Militant who took pictures of AMF soldiers and U.S. persons and turned them over to the al Qida office in Wana, Pakistan

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Detainee: I am not against America. I am not the enemy. I am not with the enemy and also I never took any pictures, and I did not have any pictures to take to (inaudible).

3.a.4. The detainee was involved in the shooting of a former AMF soldier.

Detainee: No. I never did that.

3.a.5. The detainee is a member of Hezb-E Islami, Gulbuddin (HIG).

Detainee: No. I'm not.

Personal Representative: When we talked earlier you told me that the HIG was not even in your area.

Detainee: It was never there.

3.a.6. The HIG is listed in the U.S. Department of Homeland Security Terrorist Organization Reference Guide as having long-established ties with Usama Bin Ladin.

Detainee: I don't know and I also do not have any business with them.

3.a.7. The detainee held a meeting of Senior HIG officials at his residence on 10 December 2003, to discuss a planned rocket attack on the Loya Jirga.

Detainee: This is a wrong allegation against me. This never happen.

Personal Representative: When we spoke earlier you had mentioned that you lived in a very small tent and that you could not have a meeting there.

Detainee: We don't have a house. I never have had a house. I live in a tent. We are Kuchi. This means one week here, one week there and we just pay someone to stay from one place to another. We do not have an apartment.

3.a.8. The detainee was actively seeking new recruits and former HG members to join the organization in the Kabul, Afghanistan area in September 2003.

Detainee: I have never been to Kabul in my life. Only time I went to Kabul because my mother was in the hospital. This is the only time I have been to Kabul. I have never been there again.

Personal Representative: Do you want to elaborate on what you do for a living and how you travel around?

Detainee: Yes I will do. I would like to find out (inaudible). Please let me go home. I have never been an enemy of America and never will be. Please help me to go home, they release my brother from the (inaudible) and they brought me here. I have nothing to do with this. It is all just wrongful allegations. They brought me here to Cuba, I tell you I have nothing to do with

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this. I am worried for you guys, nothing else in my life is more important than taking care of the animals. Of course there were a lot of things going on, a lot of people maybe telling you a lot of things but that is wrong. Please, I ask for my release. I'm not upset with you, I'm not mad with you. Please release me to my kids, to my home to do my duties again. I never harmed anyone in my life. I never (inaudible) people. I just worked hard to support my family. We were happy when America came to Afghanistan, we hoping to repair our country to find a decent life and daily work to support our family. I have no dispute with anyone in my entire life. I don't have any enemy here or back home. I don't have a problem with anybody in my life. I am also a very poor guy. You guys are always welcome; you always have the right to ask about me and the place I live, who I am, what I did in my life, what my duty life. You guys always have the right to ask. I never worked for any government. I never worked for anybody. My life was always working taking care of the animals from one place to another.

The Personal Representative and the Recorder had no further questions.

Tribunal Members' questions

Q. Did you have a weapon?

A. No. We have a very old gun for home protection.

Q. Is your home a tent or do you have a home you go to periodically?

A. Tent.

Q. How do you move from place to place? What do you use for transportation? Do you have a vehicle?

A. On a camel.

Q. Could you please tell us what each of your witnesses would have told the tribunal if the would have been able to come? First your brother Qader Khan and was this the same brother that was also arrested with you?

A. Yes that was my brother. He was arrested and then he was released.

Q. What could he have told us about your detention that would help the tribunal?

A. He would tell you that I'm a very poor guy and that I'm Kuchi and that I have not done anything in my entire life wrong.

Q. Also your cousin Muraad.

A. He would say the same thing.

Q. In the Detainee Election form the Personal Representative said that your cousin would have more information that you had nothing to do with the HIG or opposition forces and that you had nothing to do with acts against the United States?

A. Yes he would definitely tell you the same thing because I'm a Kuchi. I have nothing to do with HIG or nothing to do with acts against America.

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Q. Your last witness was also your cousin and your father-in-law Mamai.

A. He would say the same thing.

Q. Who captured you?

A. Afghan military.

Q. When they captured you did you have a weapon with you at time?

A. No.

Q. Do you own a camera or have access to someone that owns a camera.

A. I don't know what a camera is.

Q. You explain that your lifestyle is one where you have to move a lot. How many are your group that move? How big is your family that move?

A. Kuchi tribe is a lot of people but we move from one place with maybe one to three families together.

Q. Does your cousin move when you move?

A. Yes. They also do the same thing.

Q. The three witnesses that you requested. Do they move regularly with you? Do you see them every single day?

A. Yes. We see each other all the time.

Q. Your occupation is one where you work on open land; do you see a lot of military forces?

A. No, we do not see any soldiers.

Q. What part of Afghanistan did your tribe move around in?

A. We go to Lugar(ph) only when the grass has grown there.

Q. What is the nearest town or city around Lugar(ph)

A. There is no town or City only a mountain to take care of the animals.

Q. Is that on the border with Pakistan?

A. No it is close to Kabul.

Q. Have you ever been conscripted by the Taliban?

A. Never. We have no business with the outside world. Our tribe just works.

Q. Did any relatives have to join the military?

A. No, they never ask us or contact us.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal.

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Detainee: I'm shocked and surprised. I don't know who wrote these things about me. I am a really poor guy. I have no idea of what is going [on]. I don't have any knowledge of these things.

Personal Representative: Could you please describe exactly the circumstances when you and your brother were captured?

Detainee: We lost five of our goats and sheep. My brother was looking for them through the binoculars and I was looking for him and the soldier came and captured him, then I came behind him and they captured me to. My equipment did not work for a long time and this was the reason why we lost our animal and camels in the jungle. That is all I have to say.

Tribunal Members' questions

Q. Where do you sell your livestock?

A. Yes we take them to the auction in the city or to the village and sell them there.

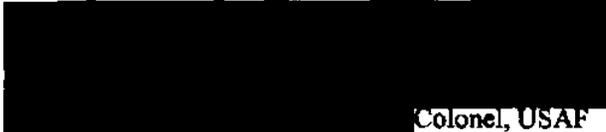
Q. What city would that be?

A. City of Khowst and a lot of people coming from other areas would buy livestock.

The Tribunal President explains the remainder of the Tribunal process to the detainee and adjourns the Tribunal.

AUTHENTICATION

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

 Colonel, USAF

Tribunal President

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Summarized Unsworn Detainee Statement

The Tribunal President was explaining the hearing instructions to the Detainee. The Tribunal President asked the Detainee if he had any questions about the Tribunal process.

Tribunal President: Mohammed this form exhibit D-A lets us know that you want to participate in the Tribunal. It also identifies that you requested for us to inventory your personal items at the time of capture. And I understand from your Personal Representative that it was done. Personal Representative if you could us a brief description of that event.

Personal Representative: Yes Ma'am. The inventory at the time of capture stated that there was a blue notebook and nothing else.

Tribunal President: Thank you. Do you understand Mohammed?

Detainee: Where did they find it?

Personal Representative: That was in his inventory of items at his time of capture. I do not know the exact time and date of his capture.

Detainee: I did not have a book. All that I had at that time was money and a passport.

Tribunal President: And the inventory did not include the passport?

Personal Representative: That is correct Ma'am.

Tribunal President: And it did not include the money?

Personal Representative: Correct.

Detainee: All that I had on me at that time was money, a passport and it was stolen from me.

Tribunal President: We will make note of that.

Personal Representative: I would like to add Ma'am that we have no record of what the Afghans may have taken from him.

Tribunal President: OK. Thank you, Personal Representative.

The Tribunal President asked the Detainee if he wished to present information or make a statement.

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Detainee: I have one witness that was present with me in Afghanistan. His name is Mohammed. He is here. I didn't bribe anybody, but the Afghanis asked us for some money.

Tribunal President: OK. Let me clarify a couple of issues. Mohammed, did you tell your Personal Representative that you wanted a witness to be here?

Detainee: I asked for his name. The answer was, he doesn't know him.

Tribunal President: Personal Representative, during your initial interview, did Mohammed ask for a witness?

Personal Representative: Not to my knowledge, Ma'am.

Tribunal President: Were you the Personal Representative that was assigned during the initial interview?

Personal Representative: Yes, Ma'am.

Tribunal President: Mohammed, did you have the understanding that you could ask for witnesses during your initial interview?

Detainee: Yes, but I didn't know his full name. All that I knew was that his first name was Mohammed and I had heard that the Americans had captured him. Where he is now, I don't know.

Tribunal President: At this point, all you can give us is one name?

Detainee: All that I know is that his name is Mohammed.

Tribunal President: That's a very common name.

Detainee: I don't know his complete name.

Tribunal President: And Mohammed would be very difficult for the Tribunal Team to try to locate. If we don't have the full name and the description of the individual, it would be hard to locate him.

Detainee: I don't know his full name.

Tribunal President: OK, Mohammed we are not able to approve of your witness request at this time, if we don't have the full name and the description of the individual.

Detainee: I understand.

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Tribunal President: Personal Representative do you have a question?

Personal Representative: Yes Ma'am. Just for clarity, was Mohammed ever in US custody?

Detainee: One day, they arrested the witness that I am requesting and I. I only know his first name. We were in Afghani custody.

Tribunal President: Personal Representative, does that answer your question?

Personal Representative: Partially, Ma'am. If he was ever handed over to the US, that would be a different type of search we could do.

Detainee: I was captured with my friend by Afghans and they handed me over to the Americans.

Personal Representative: Did they hand your friend to the Americans?

Detainee: Yes.

Personal Representative: Can you give us a physical description of your friend?

Detainee: He is taller than me. Average. He is a regular man. All that I know is that his name is Mohammed.

Tribunal President: Do you know what he could testify to? Are there are any allegations on this unclassified summary that he could dispute?

Detainee: He can dispute one thing. Number five. When the Afghani people asked us for some money to let us go.

Tribunal President: And that was at the time of your capture?

Detainee: After we were captured in Afghanistan, they put us in a place and brought in a translator. The translator asked us if we had any money we could offer. If so, they would let us go.

Tribunal President: Personal Representative, you have a comment?

Personal Representative: From the administrative point of view, if you choose to try to locate the witness, that will take about a day and one-half. There is an organization that looks for off-island witnesses. I would need to ask many more questions, like eye color, age, height, and nationality, and try to get what I could.

Tribunal President: I think the key here is determining the relevancy of the witness and of course determining if we can find the witness. Let me take a brief recess and discuss this with the Tribunal.

The Tribunal recessed for further discussion on the basis of possibly locating the Detainee's witness.

The Tribunal reconvened.

Tribunal President: Mohammed, before we go any further, I like to offer you the opportunity to take a Muslim oath.

Detainee: I don't have a problem with it.

Summarized Sworn Detainee Statement

Tribunal President: Mohammed, we need to clarify an issue with the unclassified summary. In your request for a witness, we as a Tribunal need to determine if the witness is relevant. So, we're going to look at item number 3(a)(5) and determine if the witness is relevant to this allegation. The allegation reads: "the detainee is a Taliban fundraiser who offered Northern Alliances Forces a bribe for his freedom."

Detainee: That's not right.

Tribunal President: OK. What I need to determine is if the witness will rebut you being a Taliban fundraiser.

Detainee: The witness doesn't know anything about fundraising. All he knows is that they asked us to give them a bribe to let us go.

Tribunal President: I want to make it clear. You're saying that the witness could add information concerning the bribe issue?

Detainee: It was just about the bribe because he was with me in Afghanistan.

Tribunal President: Is it your statement that you did not offer a bribe to the Northern Alliance?

Detainee: No.

Tribunal President: You did not offer a bribe to the Northern Alliance?

Detainee: No.

Tribunal President: Then this Tribunal is willing to accept your statement as true to avoid delaying the Tribunal to look for a witness for just that allegation.

Detainee: I never supported the Taliban. This is not right.

Tribunal President: Will the witness be able to dispute any of the other allegations?

Detainee: The witness doesn't know anything beside what I mentioned before.

Tribunal President: OK, that makes it clear to me. Thank you.

Detainee: All that I know is the witness was with me at that place in Afghanistan.

Tribunal President: I understand. Mohammed, this is the opportunity for you to respond to the allegations. We will use your Personal Representative to read the allegation. You can respond to the allegation and add any comments that you wish. Do you understand?

Detainee: Yes.

Tribunal President: Mohammed, could you please speak up, so we can hear you?

Detainee: Yes

The Personal Representative addressed issues in the Summary of Evidence, as was discussed while assisting the Detainee in preparation for the Tribunal.

- **3(a) The detainee is associated with al Qaida and the Taliban.**

That's not right.

- **3(a)(1) The detainee traveled from his home in Saudi Arabia to Afghanistan via Bahrain and Iran, after 11 September 2001.**

Yes, that is correct, but I had no knowledge of the problems between the US and Afghanistan. I didn't know about any conflict between Afghanistan and the United States. When I was watching a TV, I found out the problem was from Japan. I went to Afghanistan for religious duties and to fast. This training was faster in Afghanistan because it was in the purest Islamic state. This training was not army training. I went there to complete my religious duties, do it fast, and go back home.

- **3(a)(2) The detainee was recruited to train for Jihad.**

That's not right.

- **3(a)(3) The detainee reported to an Arab guesthouse in Kabul, Afghanistan, with the intent to receive military training.**

That's not right. It was a house for entertaining and I had no intentions of receiving military training. I have no desire to be trained as a military man. I did not know any of the people in that house.

- **3(a)(4) The detainee was taken into custody by Northern Alliance forces in Kabul, Afghanistan, in mid November 2001.**

I don't know the exact date but it was before Ramadan, one or two days before Ramadan. I was forced to stay in Kabul.

- **3(a)(5) The detainee is a Taliban fundraiser who offered Northern Alliance forces a bribe for his freedom.**

The Tribunal Team did not address this allegation, as it was discussed above.

Tribunal President: Mohammed, if you have other comments that you would like to make towards that allegation, please proceed.

Detainee: I have nothing to add. I never supported the Taliban and I never paid a bribe to anybody.

Tribunal President: Mohammed, does that conclude your statements and comments?

Detainee: No, I don't have any more statements or comments.

Tribunal Members' Questions to Detainee

Q: How old are you?

A: 28 years old.

Q: What did you do in Saudi Arabia before you went to Afghanistan?

A: I was a mechanic in a company.

Q: What religious obligation did you have that you went to Afghanistan to complete?

A: Everyone in Saudi Arabia and the clerics there know that we have to complete our religion to do so.

Q: Did anyone in particular suggest that you go to Afghanistan?

- A: One person suggested it to me to complete my training in Afghanistan.
- Q: Who was that?
- A: I don't know.
- Q: How did you come by this information?
- A: In the mosque.
- Q: From a preacher?
- A: I don't know.
- Q: Why did you go to Bahrain?
- A: I was short on money and had to go to Bahrain.
- Q: Was it cheaper to go to Bahrain and Iran rather than simply fly straight to Afghanistan?
- A: Going from Saudi Arabia to Bahrain is not a big deal. It is a very short distance. I went to Bahrain.
- Q: Is Saudi Arabia a pure Islamic state?
- A: Yes, of course it is.
- Q: Who paid for your travel?
- A: I did.
- Q: When did you learn about the attacks on September 11th? The allegation is that you began these travels after September 11th, but you told us that you didn't realize that the attack had taken place, but then you also said that you saw it on television. When?
- A: When I was in Saudi Arabia, I heard about it.
- Q: I'm surprised that you would go to Afghanistan at that point. Why did you leave then?
- A: I didn't know that a conflict would start between Afghanistan and the United States and wanted to complete my religion.

Q: You testified that you could not leave Afghanistan. Who told you you couldn't leave Afghanistan?

A: I traveled to the Iranian border and they didn't let me in.

Tribunal Members' Questions to Detainee

Q: You said the house was an entertaining house. What is an entertaining house?

A: It's nothing like that. It is just a place where we sit.

Q: Did anyone have any weapons there?

A: I don't know. I was sitting in the house.

Q: How long did you stay at the house?

A: Approximately one month.

Q: You sat in the house for one month?

A: Almost one month, 25 to 30 days.

Q: You said the US had a problem with Japan, is that correct?

A: I heard that on the television. Japan wanted to start a conflict between the United States and Afghanistan.

Tribunal President's Questions to Detainee

Q: Did you receive your religious training while you were in Afghanistan?

A: No.

Q: Why not?

A: I wanted to go back, but I didn't want to be in the conflict.

Q: I need to understand. You sat for a month, but you never received any training?

A: I never was trained.

Q: Did you know anyone in Afghanistan before leaving Saudi Arabia?

A: No.

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- Q: Did someone assist you with your travel arrangements to tell you where to go, where to stay?
- A: Nobody assisted me.
- Q: Why did you choose to go to Kabul?
- A: The Afghani people took us to Kabul.
- Q: What Afghani people?
- A: They took us to Kabul, but I didn't know them.
- Q: Where did you meet these Afghani people?
- A: At the border.
- Q: So were the Afghanis guides?
- A: They were there to put us in an airplane and they left.
- Q: How did you know where to go?
- A: When we landed in Kabul, they came to us. They told us they knew where the Arabs hung around, and they took us there.
- Q: Was that just somebody in the airport?
- A: There were a lot of Afghanis.
- Q: How did you support yourself while you were in Afghanistan?
- A: I had enough money with me. There was one Afghani, and we gave him money to bring some food for us.
- Q: Did you have to pay for the Arab house?
- A: No, we didn't have to pay there.
- Q: Did you have your passport when you went to Kabul?
- A: Yes, I had my passport with me.
- Q: Did you have your passport with you when you were captured?

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A: Yes.

Tribunal Members' Questions to Detainee

Q: Do you speak Pashtu?

A: No.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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Sworn Detainee Statement

I swear to the things I did and I swear, the things I said I didn't do, I didn't do. I still swear to tell the truth.

The Personal Representative read each point on the Unclassified Summary.

- **3(a)1 The Detainee admitted that he traveled to Afghanistan to join the Taliban and fight.**

Personal Representative: I was a member of the Taliban, but did not fight against the Americans. When the Americans came to Afghanistan, I was wounded and staying at home.

Detainee: I wasn't with the Taliban at that time. I did not join the Taliban when Americans were in Sherbergan. My leg was okay at that time, that's why I went to the city and got captured by the American forces.

- **3(a)2 The Detainee trained at the Pul Sayad compound.**

I wasn't fighting [with] the Taliban at that time, but I was with the Taliban during that time.

- **3(a)3 The Detainee received training on the AK-47 at the Pul Sayad compound.**

Actually, I didn't get training on the Kalashnikov on that compound. In Afghanistan, everyone learns how to use a Kalashnikov at a very young age. I know how to use a Kalashnikov.

- **3(a)4 The Detainee stayed at the Taliban-controlled compound called Shaker-Dari.**

Yes, that's true.

- **3(a)5 The Detainee was a guide for foreign fighters at a Taliban house in Kabul, Afghanistan.**

I haven't seen them in Afghanistan at all. I see foreign people here in Cuba. I haven't seen anybody. This is not true.

- **3(a)6 The Detainee was connected to a forward commander for the Taliban.**

Yes, he was my commander, he was my leader.

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- **3(a)7 The Detainee was in the company of a man who was involved in rocket attacks against U.S. forces in the Khost province.**

No. This is not true.

- **3(b)1 The Detainee admitted to being in at least one firefight against the Northern Alliance.**

Yes, this is true. I was in that fight.

- **3(b)2 The Detainee was wounded, in the left arm, during that firefight and airlifted off the front lines.**

Yes.

- **3(b)3 The Detainee had his left leg blown off during a mortar attack in Kabul, Afghanistan.**

That's true, too.

Tribunal President: Mohammed Yacoub, does this conclude your statement?

Detainee: In here, I'm kind of affected by the Tribunal. I can't even speak very well. I have a phobia of a lot of people, so I couldn't be a guide for the foreigners in Afghanistan. That's not true.

Everything that I really did, I've already told you, but the things I didn't do, I swear on Allah. Like in Khost, I've never been in Khost and I've never had friends in Khost.

During the interrogations, I was asked about (inaudible) Hakarim (phonetic). I told them he was from Khost. Maybe my statement about his gave the wrong idea, but I don't know anyone in Khost.

Again, swearing to Allah about the foreign fighters in Afghanistan; I haven't seen anybody. When I came to Bagram, they were asking me questions in interrogations. I heard Al Qaeda's name and I heard about Al Qaeda here in Cuba. This answers allegation 3(a)5. This is not true.

About the Pakistanis, I saw them when I got captured. They took me to jail in Bagram. There were some Pakistanis in jail, but before that I haven't seen them.

Tribunal President: Is there anything else you'd like to make known to the Tribunal at this time?

Detainee: Like what?

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Tribunal President: Anything else that you may feel is important in determining your enemy combatant status?

Detainee: Actually, thank you to all of the members of the Tribunal; it's very nice of them. I came here and they will be determining my status; whether I'm staying here or going back to my home country.

All these statements I've told you, I've already told my interrogator and my Personal Representative. I said everything truthfully. I've told the truth from the beginning until now.

Personal Representative's Questions to Detainee

Q: During our interview, you made some comments regarding Americans in Afghanistan. Would you like to tell the Tribunal what you told me?

A: What did I say? Remind me.

Q: Regarding Americans building in Afghanistan.

A: In Cuba, I heard that Americans were in Afghanistan building streets between Kandahar and Kabul. They are rebuilding Afghanistan and I was very happy to hear that. I appreciate that because Americans went all the way to our country to help our people, so I appreciate that.

The reason I joined the Taliban...everyone in the government only did things for their benefit. Like Miloma (phonetic), he was doing everything for Kandahar, because he's from Kandahar. He was building the bazaar, shopping centers and houses. He was working only for Kandahar and didn't do anything for our province, which was Sherberghan.

I got captured the day the Americans came, so I didn't see what they did in Afghanistan, but I heard they were rebuilding schools, rebuilding streets and doing a very good job. We, as Afghans, need someone to help our country and treat all the people the same way. It's something that I appreciate and we really need it. So, now that Americans are helping us and rebuilding our country, we should support that. I support this and there is no reason for us to fight against them [Americans].

The time you guys are counting me as an enemy combatant, I wasn't because when I was with the Taliban, the Americans were not in Afghanistan. The reason I went to join the Taliban was because I was not at my house with my family. I didn't want to see my family or be with them, so that's why I went to the Taliban.

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I joined the Taliban because I thought the Taliban would be one power, or one organization that can get rid of bad people and oppressive people, like Dostum, Massoud and (inaudible). They killed a lot of innocent people and a lot of Yankees. I wanted one group to be able to bring peace to the country.

When the Taliban came into power, they got very conceited and they brought Al Qaeda with them and the other foreign powers. Then Massoud went and got help from Russia, so they were fighting between each other. I was happy when America came because there was no Massoud and no more Taliban.

In Afghanistan, I did not know the Taliban had relationships with foreigners or Al Qaeda. Now, in Cuba, we know that they [Taliban] had associations with Al Qaeda and that's why I'm very happy. Now, I don't support the Taliban and I don't support Massoud because they're both bad.

There are two accusations about me that are not true. The one is that I was a guide for foreign fighters. This is completely not right; this is not true.

About Khost, I've never seen Khost and I've never been there and I don't have any friends there.

The point about having an association with the Taliban Commander, that's true. Yes, he was my commander and I was there.

The point about my left hand; I was there [battle] and injured my hand.

This is all of my statement. I've told my Personal Representative and I'm telling you. If you believe me, I swear and it's good. Otherwise, I don't have any witnesses to bring, so it's up to you.

I'd like to stay something else if I have permission.

Tribunal President: Certainly.

Detainee: I gave my address to the interrogators and it's in my case. You guys can go ahead and ask about me. Ask if any of my relatives or anyone from my house saw me with a car or with any foreigners. I always walked home and I never used a car because I didn't have a car. I didn't have any association with foreign people.

I couldn't even be a guide to ten people or even give directions to other people because I wasn't able to do that.

I'm sorry if I said something extra of if I wasn't very polite. I apologize.

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Tribunal President: Not at all. It is not necessary to apologize. We welcome whatever you want to provide to us in your statement.

Detainee: The statements and accusations that were written down, I didn't do these things. Some of the things here [Unclassified Summary of Evidence] are not right.

I told my Personal Representative the other day I'm very happy with the Americans. I don't blame the Americans for capturing me. I blame someone who reported me; I got captured because of him. At the end of the world, on the last day, I will ask him why he did that.

I want to say something else that I forgot about. The day in Sherberghan, they were asking me for 10,000 Afghanis but I was poor and didn't have the money to give to them. They said if I gave them the money they would release me. I was not released and they said that if I did not pay, the Americans would capture me.

Recorder's Questions to Detainee

Q: In your answer to the first point; traveling to Afghanistan to join the Taliban and fight the Jihad, you mentioned you were already wounded and you were at home.

A: When I came from Pakistan, I was fine. Then I went to the Taliban and then we went to Pul Sayad and from there we went to the North. During the fight in the North, I was wounded.

I did not go with them voluntarily, but I was just starting my (inaudible) but they made me go with them because I couldn't go back home. I didn't have money for my bus fares, so I had to go with them. I thought I'd stay for a couple days, they could pay me some money and I'd go home.

Q: The last part of your answer was that you were not Taliban when the Americans were there. My questions are when did you stop Taliban and how do you break the association?

A: Yes, when I got wounded I stayed home and I quit. My leg got wounded, and my brother came to take me home. I was home since...there was talking on the radio about Americans coming to Afghanistan and taking Afghanistan. Then Mazer-e-Sharif was taken by them and then I had to stay in Sherberghan.

Q: Mazer-e-Sharif was taken by whom?

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A: By Dostum and the Americans. They bombarded...I was in Sherberghan. I did not go home. I was far away from home somewhere, and I went home then.

Tribunal Members Questions to Detainee

Q: Good morning. I have some questions so I can better understand the story you've told us today. Are you originally from Pakistan?

A: No, I'm from Afghanistan.

Q: Was there a time you moved to Pakistan before returning to Afghanistan?

A: Yes, I went by myself to Pakistan. My family did not go to Pakistan.

Q: What was the reason for going to Pakistan?

A: The fight in the house. I got mad at my family and I decided to go to Iran; that was my goal. I didn't have enough money to make it to Iran so I went to Pakistan.

I've said my whole story from the day I left my house to when I went back to my house in my interrogations. My story is in my file. If you want me to tell my story over and over again, we'll be here until evening. That's okay, I'll tell you my story.

Q: We're not going to ask you to repeat all of it, but we do not have access to your file before coming to the tribunal. Our purpose is to try to understand what you did and why you did it.

The Pul Sayad compound, is that in Afghanistan?

A: Yes, it's in Afghanistan.

Q: Is that a military training camp?

A: I was a line. On one side of the line were Massoud's fighters and the other side was the Taliban.

Q: Was there an actual Pul Sayad place where you get training on weapons?

A: We were soldiers, like MPs. There was no military training or anything, except we had AK-47's with us. During the day, we were in our rooms, and at night, each soldier had to do two hours as a guard.

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Q: Is this the same time you were at the Shaker-Dari compound or was that a different time?

A: No, that was a different time. The person with me asked me to go to Kandahar.

Q: So, Pul Sayad is not near Kandahar?

A: It's very far away. I didn't want to go to Kandahar. I asked the person with me to give me some money so I could go home. He told me not to go home because the places I'd pass to go home were all occupied by the enemy and they would capture me. He told me to wait and to go with him to Kandahar.

Q: Was your home in the part of Afghanistan that was controlled by the Northern Alliance?

A: Yes, my house is in the North and, at that time, Massoud had control of the area.

Q: You said earlier that you fought against Massoud, Dostum, Rabbani and Hekmatyar. Those four leaders?

A: Yes, I said that. The Taliban was telling us they were not good people and we had to fight against them and make them leave the country.

I did not know that the Taliban was worse than them. They have associations with bad people.

Q: The Taliban told you that Massoud was getting aid from Russia, so that's why you thought it was okay to fight them? Even though they were Muslim?

A: They told me to fight him because he got help from Russia.

Q: Was there a time you actually stayed at a Taliban house in Kabul?

A: First, there was a man named Malek. He joined the Taliban and gave the North to the Taliban, surrendered the North to the Taliban. Then he said he was going to help the Taliban get the North, but he played games with the Taliban. Malek actually tricked the Taliban so he could kill the Taliban.

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When the Taliban went north with him, he killed them all. The Taliban had to come back to Kabul, Herat and Kandahar. They left the north to the Northern Alliance.

The second time the Taliban went to the location, I was wounded; my leg was cut and I was in the hospital. I wasn't with them.

At that time, Malek skipped the country and went to Iran. Massoud went to (inaudible) and Dostum went to Turkey. The Taliban occupied a lot of locations and I went home.

- Q: During the fighting, there was a short period of time you were in Kabul?
- A: What period of time? When my leg was injured and I was in the hospital? That time?
- Q: Any time. Was there more than one time?
- A: When I came from Pakistan, I went with them to Pul Sayed for one to one and a half months. From Pul Sayed I went to Kandahar for about 15 days. Then I was told some people would be sent to Kabul and I could go with them, and after Kabul I could go home.

The guy with me was named Haji Satar, Mullah Satar. The person with me in Pul Sayed introduced me to Mullah Satar. They told me they would take me to Kabul, but he lied. He lured us into the car and the car went a different direction. It went to Herat, not Kabul.

I did not know which way we were going and from Herat, they took us to Bahrest (phonetic) and then to a district named Marrah (phonetic). The Taliban was having a fight with Malek there.

During that time, they made me to fight and that's when I got injured on my left arm. They put me on the plane and took me to Herat. I hadn't healed very much; I was still wounded and they sent me back to Herat.

When I got to Herat, I asked where Mullah Satar was. In Kandahar I asked for him and they told me he went to Kabul. From there, I went to Kabul. When I was in Kabul, he was Shaker-Dari.

In Shaker-Dari there is another line between Massoud and the Taliban. Massoud and his soldiers were in Boudaret (phonetic) and the Taliban was in Shaker-Dari.

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In Shaker-Dari there was a fight against the enemies. The mortar exploded and they told me to get down and lay down, but my leg got injured. I was unconscious and I didn't know anything. They put me in the ambulance or the car and took me to the military hospital.

When I woke up I asked where I was. They told me that I was in the hospital. I asked about my leg and they said it was cut and they wouldn't let me talk that much.

I didn't have anyone there to take care of me. I didn't have my family or any visitors to take care of me. Also, when they cut my leg, they cut it a little bit, then they cut it again a little bit further, and then it got infected. I spent three to four months in bed, in the hospital.

The Taliban took the north and Malek escaped from it. Then the Taliban took the whole area. Massoud and Dostum were scared too, and they ran away.

At that time, they took all of the north, including the place I lived. So, they put me on a plane and took me to my place.

After that, my brother came and I went to Konduz and then I went to Mazer-e-Sharif and (inaudible).

I didn't want to go to my house, because I was still mad at the people in my home. My brother came and took me home. He apologized a lot to me and made me go home again.

When I went home, I spent most of my time there. We used to have a house in (inaudible) and we're living somewhere else and I lived with my brother.

Q: If you remember, how much time passed between when your brother brought you home and you were captured?

A: I'm not sure how long it took, but it was one to one and a half years that I spent out of my house, but most of the time I was in my house.

Q: You said earlier that you thought one of your enemies reported you. Is that right?

A: There was an organization from Sweden coming to Afghanistan to make plastic legs for the handicapped people. I went to Dahar (phonetic) to get a plastic leg. When you are injured in the Taliban, they don't care about

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you anymore; they just leave you. They won't ask for you and they don't care about you anymore. I had to take care of myself and ask for help.

I asked for help from the Red Cross and for the Swedish organization to make the plastic leg.

When they fixed my leg in Dahar and I went home. Then from my home I went to Konduz and then back to Dahar. When I got my leg fixed I went to Konduz and then to my house.

When I came home, it still hurt to walk on my leg. I told my brother I was going to Mazer-e-Sharif to have my leg fixed so it would do me some good. I told them that my leg was not good. They said they couldn't give me another plastic leg, but they could repair it. That time, after they repaired the leg, it was better.

At that time, there were two kinds of money in Afghanistan; one was Dostum's money and the other kind of money. I was owed 35000 Dostum's money and I decided to try to see Haji Satar and ask him to give me some money, but when I went there he wasn't there. His friend was there. He [friend] told me to stay for a few days.

At that time, people were talking about the Americans and the bombs started. That night he [unknown] came to Mazer-e-Sharif and I was still in Sherberghan. Mullah Satar wanted to run away from Konduz and go to Mazer-e-Sharif, but he died during the bombing.

When I was in Sherberghan, I was sleeping...the other Taliban left Sherberghan towards Mazer-e-Sharif. At that time I volunteered. At that time I had long hair and a long beard, and dressed in Afghani clothes.

At that time, in Sherberghan, I wanted to take a break to eat. I was walking and somebody told me to come here. It was a Pashtu and a Farsi speaking person. I went there and I got captured.

I had one coat, a turban and 800 Afghanis. They took my coat, turban and my money. My shoes were new. He took my new shoes and gave me his old working shoes. After that, they put me in the basement for 7 or 8 days. Then Ramadan came.

After 12 days of Ramadan passed, I heard that Konduz, and a lot of places in Afghanistan, were taken by the Americans. In Konduz, a lot of Taliban were in the fight and Dostum was killed in Sherberghan.

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When I told them that, I was told I would never see Afghanistan again and to just forget about Afghanistan. I told him that was okay; he could give me to the Americans.

Seven days passed and Americans came. When they were taking me out of the jail, they said it was my last chance. If I gave them the money, they'd release me. I told them that I wouldn't even give them 10 Rupees and to give me to the Americans.

There were two Commanders and one soldier. When we were walking, the two Commanders were in front of me and the soldier was behind me. When we were walking, we passed several doors. At the third door, there was an American on the roof for security.

I had a 100 Rupees bill and some change that someone gave me for charity in my pocket and I had two pair of prayer beads around my neck. There was an Uzbek guy who told me to hold my hands up so the Americans could search me.

I was holding my hand up and the Uzbek was searching me. When he saw the money in my pocket, he took it and put it in his pocket. The American MP was standing there and saw this. He told him to give me back my money. The Uzbek put the money back in my pocket.

The American told me to look at the prison and to put my hands behind me. I did this and he handcuffed me and searched me again. They took me to a room that had a bathroom next to it.

There was a blanket was hanging that had a lot of bullet holes in it and I thought the Americans were going to kill me; I started praying.

The linguist in Afghanistan told me to take my clothes off because they wanted to examine me and search me again. I told them that I didn't want to be naked and needed a sheet to wear.

They told me to take my clothes off and they brought a black bag. They put my clothes and my beads in the black bag and they gave me clothes to wear. After that they covered my face and handcuffed me and then took me to another room.

I was sitting in the room on the floor and I heard noises. They brought five more people in; I didn't know them.

When they were picking me up from the floor, my legs went out, so they carried me and put me in the car. Actually, I didn't see because our eyes

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were clothes and our hands were tied. They put each person in a separate car. With me was an American MP and a Farsi guy. From there, they took us to Sherberghan airport to an American plane. There was another Uzbek and said this was the time they were giving me to Americans. At that time, I was hurting badly and I started cursing this Uzbek. Then he told me that I would never see my sister, mother, father, country or my home again. I said that was okay.

They put me on the plane and they took me to Bagram. I have a lot of stories to tell. I spent one and a half months in Bagram and then I came here.

- Q: Thank you very much; you've covered the details well.
- A: Thank you very much for asking me all of these things.
- Q: With respect to your leg injury, are you familiar with the battle of Mazer-e-Sharif?
- A: Yes, I was in the hospital and was told there was fighting at Mazer-e-Sharif and the Taliban had fallen.
- Q: You were in the hospital for a month, two months, three months?
- A: It was three or four months.
- Q: Earlier, you mentioned that you didn't meet any foreigners. What is your definition of a foreigner? You did a lot of travel around Afghanistan.
- A: When I was with the Taliban, I didn't even see a Pakistani. They are even considered foreigners. I didn't see anyone except Afghans.
- Q: All Afghans then?
- A: Yes. There were Afghans from everywhere, like Kandahar...
- Q: No Arabs from Saudi Arabia or Yemen?
- A: I swear I haven't seen any Arabs.
- Q: You said you were never in Khost. Khost is also a province that is bigger than the city. Were you ever in Khost province?

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- A: I haven't heard of Khost as a large province, but I've never been there. Afghanistan is my country and I've heard a lot of names from other provinces, but I didn't go to most of them.
- Q: Sherberghan, that is just west of Mazer-e-Sharif?
- A: I've heard the names of west and east, but I don't know if it's west or not. It's by the sunset side.
- Q: That works, thank you.
- A: The other side of Salanga (ph) is north.
- Q: That's good. Sunset works fine. Thank you.
- A: First is (inaudible), but it's near sunrise. When you go from my place, first Salanga to Mazer-e-Sharif and then Sherberghan.
- Q: Thank you, I have no more questions.
- A: I want to say something else. I gave my address to you guys and I even swore, but if you don't believe me or my swear, you can go ask about me in my country.

Tribunal President's Questions to Detainee

- Q: Is there any other information that you feel would be important to help us determine if you have been properly classified as an enemy combatant?
- A: I'd like to say one thing. You were accusing me of joining the Taliban. At that time, the Taliban was the government of Afghanistan. Even if I were in Afghanistan, now I'd join the government, if any government came. You have to support the government.

I didn't do any military (inaudible) in other countries. If I did activities in other countries, you can blame me for that. It was for my country. I was for Afghanistan and whatever I did, I did it in my country.

This is up to you. You can release me, keep me in jail or assassinate me; the punishment is up to you. If you have any proof, evidence or witnesses against me that I was with these foreign people, or if I had a friend in Khost that can prove this...

In Bagram, they said if I told the truth they'd release me. I've said the truth since the day I left my house, to the day I went back to my house.

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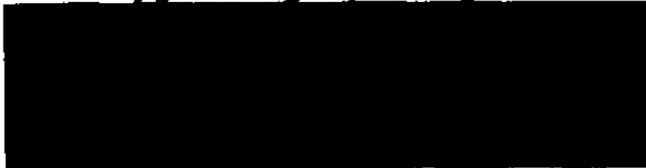
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I've said the truth to them. This is your decision. I've already told you about what I was involved in. I will never do that again. I have my address with you guys and my letters and picture with you. I will never do that again.

AUTHENTICATION

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



Colonel, U.S. Marine Corps
Tribunal President

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Summarized Detainee Unsworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-a) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President referred to the Detainee Election Form, which indicated that the Detainee had chosen to participate in the Tribunal process, had not requested any documentary evidence or witnesses on his behalf and would like the Personal Representative to speak briefly regarding the allegations in the Unclassified Summary of Evidence with the Detainee adding additional comments as needed.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

Detainee: I will explain my evidence to the Tribunal.

The Tribunal President asked if the Detainee would like to make his statement under oath.

Detainee: I will take the oath for only one thing. I have told the truth on all the other points.

Tribunal President: Then you will take the Muslim oath?

Detainee: Yes.

Tribunal President: Very well, thank you. At this time, Recorder, please administer the Muslim oath to the Detainee.

Detainee: I know the Muslim oath.

Tribunal President: All right, if you would like to say it yourself that is fine.

Detainee: I will take the oath for number one (referring to bullet 3.1 of the Unclassified Summary of Evidence) that said that I have association with al Qaida or Taliban. I will take the oath that I have nothing to do with those organizations or those people. I will take the oath only for that reason.

Tribunal President: The oath that we would like for you to take is a symbolic or a gesture that indicates that you will promise to tell the truth.

Detainee: I will take the oath for just one thing and that's where it says that I have an association with al Qaida and Taliban. I will take the oath for this but the rest of them are just accusing me for all of those things that aren't true and I will not take an oath for those issues, only the one.

Tribunal President: I think I understand. By taking the oath it's not a sign of admission or confession. All it is saying is that I promise to tell the truth. Everything I say here today, I promise to tell the truth.

Detainee: Everything I said is true and I will not take the oath.

Tribunal President: Very well then. That will be fine too. We will accept your statements and give them serious consideration whether you take the oath or do not take the oath.

Detainee: Okay.

Tribunal President: Very well then. At this time, with the assistance of your Personal Representative, you may begin.

Personal Representative: What I will do is read the allegation and then read what you told me in the interview and then you will have time to add anything else if you want to.

Detainee: Okay.

3.1. The Detainee traveled from China to Pakistan in April or May 2001. In July 2001 the Detainee traveled to Afghanistan to receive military training at the Uighur camp in the Tora Bora Mountains.

Personal Representative: This is true. I went to Pakistan in about May of 2001 to do business. I didn't have a specific business. I had some money to go to Pakistan to start a business after looking around at the market. Somebody told me about a Uighur training camp in Afghanistan that would teach you to fight against the Chinese government. In July 2001, I traveled to Afghanistan and I did learn to shoot a gun there.

Detainee: This was at the end of July.

Personal Representative: Is there anything else you want to say about that?

Detainee: First let me explain to you why I left my country. Our country is being controlled by the Chinese government, which has different kinds of policies and for some reason they accuse Uighur people for nothing and punish them really badly. I decided I didn't want to be accused for doing nothing and be punished so I left the country. I left my

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home country and had no desire to go back. That's why I closed up all my business and went to Pakistan.

Personal Representative: Let's go to the second allegation.

Detainee: Yes.

3.2. The Detainee lived at the Uighur training camp from July to October 2001.

Personal Representative: I went to Afghanistan in July of 2001. After the bombing we couldn't stay at the place we were and we went to the mountains.

Detainee: You didn't read the reason I went to Afghanistan.

Translator: I think that he (the Detainee) thinks we are still on number one.

Personal Representative: Why don't you tell us why you went to Afghanistan?

Detainee: I wanted to go somewhere else to do business but I heard of some Uighur groups in Afghanistan getting training to fight against the Chinese government. I changed my mind and tried to go over there to join that group. That's the reason I went to Afghanistan. If someone told me that the Uighur group was not against the Chinese government and against any other government besides China then I would not have gone to join them.

Personal Representative: I will read the next allegation.

Detainee: Yes.

The Personal Representative began to read point 3.3.

Translator: I think we need number two. Did he answer number two?

Personal Representative: Ask him if he has anything else to say about number two.

Detainee: Yes, I have something else to say. It's true that I went to Afghanistan at the end of July. At the camp the conditions were really bad and stressful and there was lots of hard work. I decided to stay there because our goal was to be against the Chinese government and I wouldn't give up my goal even in the bad conditions to live. The food was not good quality but I still decided to stay there.

Personal Representative: I'll go to the next one now?

Detainee: Yes.

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3.3. The East Turkistan Islamic Movement (ETIM) operated facilities in the Tora Bora region of Afghanistan in which Uighur expatriates underwent small arms training. These camps were funded by Bin Laden and the Taliban.

Personal Representative: This is what you told me. I never said this during any interrogations and I don't know who funded the camp. We did not know that the place where the camp was located was called Tora Bora. I heard this name for the first time in Kandahar.

Detainee: Can I look at my statement?

Tribunal President: Sure.

Detainee: (Pulling sheets of paper from his shirt pocket) I never heard about the Turkistan Islamic Movement. My understanding is that this is a liberation movement. Like I said, the place where we stayed was called Tora Bora, I didn't know that name. We called the place by it being at the end of the village and also the beginning of the mountain. That's how we (inaudible). It says there was small-arms training. I did not see many weapons in there. I only trained on the Kalashnikov and not any other weapon. They called this place a camp but that's way too much of a name for that place we stayed. They did not have enough bathrooms to use or housing or anything. That is way too big of a name for the place where we stayed. You say that Usama Bin Laden and the Taliban funded the camp but I never heard about that. I don't think the camp needed help from them. There are a lot of rich Uighur people who might have helped the camp.

Personal Representative: I'm going to the next one.

Detainee: Yes.

3.4. ETIM is one of the most militant of the ethnic Uighur separatist groups, and it is suspected of having training and financial ties to al Qaeda.

Personal Representative: This is what you told me. It is a separatist group because we want to be separate from the Chinese government.

Detainee: Is that all? I do not understand. My understanding is that it is a separatist group and I just explained that we want to separate from the Chinese government and that's why it is called separatist. I want you to explain to me what they mean by a separatist group.

Tribunal Member: We believe it is the same meaning how you explained it.

Detainee: That's why we wanted to be separate from the Chinese government and we want to create our own Uighur nation without the Chinese government. The Chinese say that there two separate groups. One is in the (inaudible) and one is the country. If something happens they announce on the radio and television those two separatist groups are the ones taking responsibility for anything happening in the country. Uighurs have a

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title now. Uighurs inside the country they call a separatist group. Now we are outside and have the title of terrorists. I have no knowledge about the training and being funded by al Qaida. I have no knowledge about that.

Personal Representative: I'll read the next one.

Detainee: Yes.

3.5. While at the Uighur camp the detainee received training on the Kalashnikov rifle, a handgun, and another weapon.

Personal Representative: This is what you told me. I only trained on the Kalashnikov. I never trained on any of the other weapons.

Detainee: That's true. I only trained on the Kalashnikov. (If) You don't train on that weapon, you cannot fight back against the Chinese.

Personal Representative: I'll go to the last one.

Detainee: Yes.

3.6. Following the destruction of the training camp by the United States forces bombing campaign, the Detainee traveled to Parachinar, Pakistan where he was turned over to Pakistan authorities.

Personal Representative: This is what you told me. That's true we went into the mountains and we stayed inside a cave. Then we went into Pakistan and we were turned into Pakistan authorities and then into prison.

Detainee: That's true. I want to explain a little bit more about this. When we stayed in that camp, we heard that bombing would be starting in Afghanistan. Our leaders told us that we had done nothing against America or any other forces and that they wouldn't be bombing us and we don't have anything to worry about. They said to just stay there and do your own business as usual. That's the reason we continued to stay at the camp. The first day they dropped a bomb just in front of us. We were scared and ran away. Then they dropped a bomb right onto the camp so we ran into the mountains. On the second day in the morning we came back to the same place, found some food and went back into the mountain. About three or four days later it looked like no one ever even stayed in that place. After that there was no stopping. There was constantly bombing all the time. In the mountain we stayed in a cave because we didn't know where to go. We didn't know if we should go to the city or other places. We were waiting for our leaders to come and tell us to go to the city or somewhere else but no one showed up and we decided to go to Pakistan. When we got to Pakistan, the local people came to us with tea, bread and meat, really good stuff. In the middle of the night they came to us to take us to the mosque. We went to the mosque and then they turned us over to the Pakistani authorities but those

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people didn't even have any weapons or uniforms. They were just regular people. They put us in cars and took us to jail. After that they turned us over to the U.S.

Tribunal President: We may have some questions for you. Does this complete your statement at this time?

Detainee: Can I ask something from you?

Tribunal President: Sure.

Detainee: I just explained everything. Do you think when I traveled to Pakistan, was that the right thing or the wrong thing?

Tribunal President: We think that you traveled from Afghanistan to Pakistan, and that is what we are aware of at this point.

Detainee: I traveled from Pakistan to Afghanistan because of joining that group. Is that the right thing or the wrong thing?

Tribunal President: I don't know how to answer that. Is it the right thing or the wrong thing? We understand from the Unclassified Summary of Evidence, which says that from Pakistan you traveled to Afghanistan and then after the bombing of the Uighur camp you traveled back to Pakistan.

Detainee: There was only one chance for the Uighur people. When we went to Afghanistan to get training, it was only one thing in my mind, which was to be trained to fight back against the Chinese and nothing else. The last fifty years we didn't have any chance. This was the first chance we have had.

Tribunal President: I understand. Is there anything else at this time?

Detainee: No.

Tribunal President: If you don't mind, we may have some questions for you.

Detainee: Yes.

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

Personal Representative: No, sir.

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

Recorder: No, sir.

Tribunal President: Do any members of the Tribunal have questions for the Detainee?

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Tribunal Members' questions

- Q. Good afternoon. We recall your courteous participation from a previous Tribunal where you testified for one of your Uighur brothers. Over time we have come to learn the situation in your home country from the other Uighurs who have come before us. So it is understandable why you would want to leave your home country in search of a better life. Does that accurately say why you left originally?
- A. That is accurate.
- Q. So in Pakistan you were hoping to start your own business and live there and support yourself, was that your goal?
- A. I wasn't going to stay in Pakistan permanently. If the business was good, then I would go somewhere else and travel the world.
- Q. Were you able to start a business and was it going well at the time you decided to go to Afghanistan or you hadn't had enough time to do that yet?
- A. I did some business in Pakistan. It was a watch business.
- Q. Was it profitable? Were you able to sustain yourself just by doing that?
- A. I didn't really have a chance to make that much of a profit or anything like that. I just started the business then I got the idea to go to Afghanistan.
- Q. Before you went to Pakistan, when you were in your home country, how did you make a living?
- A. I was making hats in my home country. Then the Chinese started to take over all the business. When you do something by hand and try to sell it, it doesn't work because the Chinese created so many factories and everything became automatic with the machines. With shoe fixing and that kind of work, you can't make a profit.
- Q. Besides Pakistan, did you travel to any other country near your home country?
- A. I traveled to Kyrgyzstan first, then I traveled to Pakistan.
- Q. How long were you in Kyrgyzstan?
- A. Approximately ten days.
- Q. A very short time then?

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- A. Because I didn't have any desire to stay in Kyrgyzstan. I just wanted to look around at the market and that kind of stuff.
- Q. So that's what you did in Kyrgyzstan, you just looked around the market and then left?
- A. Yes.
- Q. There was a time in the recent past where the American embassy in Kyrgyzstan was attacked. Do you know anything about that?
- A. When did this happen?
- Q. I believe three years ago or so.
- A. No, I don't know.
- Q. Have you ever had any dealings with Uzbek (ph) Muslims?
- A. You mean in Kyrgyzstan?
- Q. In Kyrgyzstan or any other place.
- A. No, I never met the Uzbek (ph) people.
- Q. There is a group called the Islamic Movement of Uzbekistan (ph). Have you ever heard of this group?
- A. No, I didn't hear anything about that.
- Q. So was there anytime during any of your interrogations in Pakistan, Afghanistan, or Cuba where you said you were a member of the group?
- A. I never said I was a member of this organization. I told them that I joined the group in Tora Bora.
- Q. In the Uighur camp in Afghanistan, were there any other people there besides Uighurs that you saw?
- A. I didn't see anyone besides Uighur people.
- Q. Who was in charge of the camp where you were?
- A. There was a person named Abdul Haq he is the one in charge of the camp.
- Q. So the Uighurs there took their direction from him?

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- A. That is the person who was leading all of the Uighur people.
- Q. Did he ever say anything to you about the fighting for the Taliban?
- A. No, he didn't say anything like that. If he had said something like that, there would no Uighur people staying in that camp.
- Q. I just wondered if he wanted the Uighur people to get practice fighting so they could be ready for the big fight against the Chinese someday.
- A. That's right. What I think is that we continued to train. Keep training and keep training and if we get more members and more people then we fight back against the Chinese.
- Q. Did you know of any Uighur people who did fight alongside the Taliban?
- A. No.
- Q. Besides the Chinese, who do the Uighur people say are their enemies?
- A. I don't think the Uighur people have any enemies but the Chinese. They have been fighting against the Chinese since way back in history.
- Q. We know that you do not want to be at the camp, but during your time here how have been treated?
- A. I don't know. I've never been in a prison so I don't know how a prison treats people so I can't really tell if they have treated me good or bad. But, I don't want to stay in the prison.
- Q. Other than the Uighur camp in Afghanistan, was there any other time in your life when you had military training?
- A. I ran in my life for exercise. That's the only thing I really did. But inside Kyrgyzstan, Uighur people have no chance to get military training. If you want I can tell you a little story about running that is happening in my home country.
- Q. Okay, please.
- A. It was fall of 1997 and during that time lots of Uighur people started during things against the Chinese government. All the young people started running for exercise. One day I decided to run. A guy ran up to me and told me that I needed to go back home because they just arrested two Uighurs because they were running. So I went back home. Later I heard that they kept them in prison for like a month and interrogated them about why they were running because it's not the Uighur

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people's culture. You've been runners. Who's organizing you to do all this running and exercising. They kept them for like a month in the prison, torturing them and then let them go. During that time I was running for like a month.

- Q. If you were to be released, where would you want to go and what would you want to do?
- A. If you released me now I don't know what I'm going to do. In my mind, I'm just living some place in peace. Outside the life for Uighurs is kind of narrow and I'm afraid to join any committee or organization or anything, I just want to stay away from them.
- Q. Have you been able to communicate with your family back in China since you've been here in Cuba?
- A. No, we don't have a chance to communicate with family.
- Q. You said that your job or occupation in Pakistan was the watch business and before that when you were back in China you made hats by hand. I guess you didn't get much training in making or fixing watches, was it selling watches?
- A. It was just the selling the business. People would go to the home country in China and bring watches, calculators and all types of things back to Pakistan and I sold it to the Pakistanis.
- Q. Did you sell a lot of watches?
- A. No, I didn't sell a lot of watches. I was just trying to see how it would work. I just bought a couple to sell.
- Q. Did you have any special brand of watch that was good seller or a possible good seller?
- A. They weren't really good watches. They were really cheap watches. I used to have one on my hand but you guys have it now.
- Q. What kind of watch was that?
- A. It had a battery and was kind of like the watch that he (a member of the Tribunal) is wearing.
- Q. Oh, like his watch, okay.
- A. It looked like that, but was a little bit smaller. That's only one kind.
- Q. It was probably a better watch than his.

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A. It said made in China.

Q. Okay, earlier on you said that you did not want to go back to China. Why then would you want to go to a military training camp to fight China if you had no intention to go back to China?

A. I said that when I got to Afghanistan it came up in my mind. When you go to Afghanistan they will look at us, those groups against the Chinese and then we would never have a chance of going back to China. The thing is we could go back to China and fight back against them or I would never have a chance to go back to China. I saw that in my eyes before I went to Afghanistan. I saw it but I still decided to go to Afghanistan.

Q. And go for military training?

A. Go to Afghanistan for training to fight against the Chinese.

Q. But you didn't want to go back to China though?

A. Yeah, I didn't want it. The Chinese policy, let me explain their policy. The Chinese policy told the Uighur people that if anyone wanted to go to another country it was like an animal escaped from their farm. It is very difficult. Under 30 years old, the government doesn't issue passports for the Uighur people. In China the corruption is really bad. If you spend the money on it you can get some illegal way to get a passport or other documents.

Q. Okay.

A. There wasn't anything in my record. I haven't been to prison or anything so I have a really clear record. Still I got passport in six months. I spent a lot of money for it. It's a legal passport but it took six months to get it and I spent some money to get it faster.

Q. Was that a passport for travel to Pakistan only?

A. The passport I got I was told was good for 16 countries. I'm allowed to travel to 16 countries.

Q. But it was an illegal passport right?

A. It is a legal passport. Not illegal but a legal passport. The passport official told me that it was good for travel to 16 countries. There are a couple different kinds of passports in China. Some of them are business passports and some of them are travel passports.

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Q. What kind do you have?

A. Business passport.

Q. That was good for how many days?

A. It was good for three years. It was for two years but when I got it, I got changed it changed to three years.

Q. But if you were to travel somewhere on business, how long could you stay on that business trip before you had to come back?

A. I could stay in the place for three months. You had to be back to China before three months. If you don't come back before three months, when you do come back they will punish you and your family.

Q. Did you have your passport with you in Pakistan when the authorities put you under custody?

A. No, I didn't have anything on me.

Q. Where was your passport?

A. At the camp they had a place to save our passports and I gave it to those people. It was probably destroyed in the bombing.

Q. It was in Afghanistan that you turned your passport over at the camp?

A. Yes, I gave it to those people.

Tribunal Member: I have no more questions. Thank you very much.

Tribunal President's questions

Q. Let's go back to the American bombing campaign in Afghanistan. When the bombing started at the training camp everyone fled to the mountains and you indicated that you sought safety in a cave?

A. Yes, I fled to the mountains because it was safer.

Q. You further indicated that you were waiting, your group that you were with, for the leaders to join you but they never did.

A. That's one reason. We didn't know where we were going to go. I didn't even know if we could walk into Pakistan through those mountains. We were waiting for someone else to come and lead us somewhere because we didn't know the way

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to go anywhere. That's the reason we stayed in the cave. It's only my opinion. That's what I thought about that.

Q. Were you referring to leaders of your Uighur group or guides to take you to Pakistan?

A. We didn't have any leaders or anyone to lead us. When we were in the cave we were waiting for someone to come up the mountains and lead us to the city or tell us what we should do. That's why we were waiting.

Q. So your use of the word leaders at that time meant a guide to take you to Pakistan?

A. We were waiting for Abdul Haq, he was in charge of the group. We were waiting for him to come up to give orders or take us somewhere else. That's what I mean.

Q. He was in charge of the training camp?

A. Yes, he was the one responsible for the camp.

Q. Did he ever link up with you or do you know what happened to him?

A. We didn't have a chance or reason to stay in that place but none of us Uighurs knew where to go. That's why we continued to stay in that place.

Q. But the camp leader, did he ever join you in the caves or do you know what happened to him?

A. No, I don't know about that.

Q. You don't know what happened to him. You never saw him again?

A. I didn't see him again.

Q. The group that you were fleeing with. How many were in your group?

A. There were 18 people and all of us are here. During that time, we didn't know the exact amount of how people many there were. After we counted there were 18 people and all of us are here right now.

Q. That was the number in your group that crossed the border into Pakistan before you were captured?

A. Yes, those 18 people together.

Q. There were only 18? Were there any Arabs escorting you or with you?

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- A. Arabs crossed the border too, but we weren't with them. We were behind them, following them. We heard those people were traveling to Pakistan and we followed their footsteps and crossed over to Pakistan. During that time we didn't if those people were Arabs or Afghanis. When we heard they were going to Pakistan we decided to follow them.

Tribunal President: Very good. Are there any other questions?

Tribunal Member: Just one.

Tribunal Member's questions

Q. Since you've here at the camp, has the Chinese delegation come to visit you?

A. Yes.

Q. How did they treat you when they did come here?

A. They didn't treat me good.

Q. How long did you speak with them?

A. They took me to the interrogation room twice. It was probably a total of about a half of an hour. They speak most of the time. I just spoke a little bit.

Q. When they spoke to you what did they say?

A. They read the report that the U.S. gave to the Chinese. The allegations that I came to Pakistan from Tora Bora and that I went from Pakistan to Afghanistan. It was all the information.

Q. Did they make any threats against you?

A. Yes they did.

Q. How, what did they say?

A. The American government will turn you guys over to us. You have no other way. We came here to pick you guys up. When you go back to China you will be put into prison for at least three years or longer. They said that there was an American person that was going to be a witness for them and tell us that America had already decided to turn us over to the Chinese. If you don't believe us we can bring witnesses. I told them that if they wanted to bring a witness then bring one but I don't care. If they send me back to China then I'll go back to China if not I'll stay here. I don't really care what they do. They brought him as a witness to some

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other Uighurs and told them that they were going to send them back to China so they had better answer whatever the interrogators ask. It was their last chance.

Q. Did you see this person?

A. No, I didn't see this person. I thought they were going to bring him but they didn't bring him. I told them it was their choice. If they want to bring him then to bring him or if you don't it's up to you. They didn't bring him to me. They used him as a witness for the person that was staying next to him on the cellblock. They told him that they had an agreement with the government and that they were going to send him back to China. He read some article about an agreement with the government about the Detainees. First I didn't believe those allegations that the U.S. was going to send us back to China but then they came to our rooms to take our pictures and I told them no. They said that if I don't cooperate with they would call the MP soldier because we have an agreement and that they will come here and hold you so we can take your picture. I told them whatever if you want to call the MPs go ahead and call I don't care. I thought the MP would (inaudible). The MP came in and said that they had orders from higher up and we have to hold you by your neck and they will take your picture. I told them okay you don't have to hold me. I will let them take picture. They had me believe the allegations that the U.S. would send us back to China.

Q. Did the Chinese make any threats against your family?

A. No, they didn't threaten my family. I was thinking that if was really hard on them and tough that they would hurt my family. That's why I was nice and they called us bastards and all this stuff.

Tribunal Member: That's all I have. Thank you.

Tribunal President: Thank you for your testimony today. Is there anything else you would like to say to or bring to the attention of this Tribunal today?

Detainee: I would like to talk about the oath. I just want to explain. In my entire life I have never taken an oath for anything. Taking an oath is a very huge responsibility. If you do something and you take an oath it makes it totally different. That's the reason because I've been telling the truth all the time. The only thing that I would take an oath on was the association with al Qaida and Taliban accusation. That's the one I will take an oath for. The rest of the stuff wasn't really necessary for me to take an oath because I've been telling the truth. I felt it didn't really need an oath for the other accusations.

Tribunal President: Very well, we understand.

Detainee: I have nothing else to say now.

Tribunal President: Okay, thank you.

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The Tribunal President confirmed that the Personal Representative had no further evidence to present and that the Detainee had no previously approved witnesses to present to the Tribunal and closed the open session.

The Tribunal President began to explain the remainder of the Tribunal process to the Detainee and when told that he would be notified of the Tribunal's decision upon completion of the proceedings by the convening authority, the Detainee asked the following question:

Detainee: When will the results be completed?

Tribunal President: As soon as possible but hopefully within 30 to 60 days from today.

Detainee: I would like to mention one more thing.

Tribunal President: Okay.

Detainee: They accused me of having association with al Qaida or Taliban but the evidence and accusations don't relate to me having an association with al Qaida or the Taliban.

Tribunal President: The unclassified evidence identifies that there is an association with the Taliban or al Qaida. What that association is, is on number three that the East Turkistan Islamic Movement (ETIM) operated facilities and that the camps were funded by Bin Laden and the Taliban.

Detainee: The evidence is that I stayed in that place so I have an association with Taliban or al Qaida?

Tribunal President: That's what it says.

Detainee: Then I explained everything about why I went to Afghanistan. I guess you understand why I went to Afghanistan. I want you to look at it clearly and be wise with your result. Me seeking political asylum in another country, I want to take out of this place clear and clean.

Tribunal President: I understand.

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The Tribunal President continued to explain the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

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



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Tribunal President

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The Tribunal President explained the hearing instructions to the Detainee.

Summarized Sworn Detainee's Statement

- **3(a)(1) Detainee's family actively supported the Taliban and al Qaida forces in Afghanistan.**

No. This is untrue. I didn't help them. When they came from the other side of the border, I didn't know they were part of al Qaida. I just provided them with food because they were strangers. In Bagram, I confessed that I did help them, but in Bagram I was very sick and with my belief I will tell you the truth and I didn't help them.

- **3(a)(2) Detainee was apprehended by United States Forces for assisting Anti-Coalition Forces.**

No I did help anyone. I was busy tending to my work. I am a storekeeper.

- **3(a)(3) Detainee was reportedly an enemy of the infidels and non-Muslims and supported the Taliban.**

I swear to God, that I didn't help anyone. I was busy doing my daily work.

- **3(b)(1) The Detainee and his family guarded al Qaida weapons.**

I swear to God, I didn't guard any weapons for them.

Personal Representative: In addition, in our previous meeting he stated (referring to the Detainee), he spent winters in Pakistan and summers in Shakekub Zamad, where he worked awhile. Never did he see any al Qaida weapons. We only have one weapon in our house. Everyone had one weapon to protect them.

Tribunal President: Clarification. Are you reading his previous statement?

Personal Representative: Correct, the previous statement of the Detainee.

Tribunal President: Mohammad Said, is there anything else that you would like to tell us concerning the summary of evidence?

Detainee: I swear to God that I am innocent and this is my speaking the truth. In winters I was going to Pakistan for work and in the summers I was going to Afghanistan. I have never been with the Taliban. I was busy with my work and supporting myself.

Tribunal Member's Questions for the Detainee

Q: How were you captured? The circumstances?

A: I was arrested in my home. I was working on my land. I was irrigating my land and the guards were in my home. As soon as I got into the house, I saw the guards and I went to them and said hello. They pushed me to the ground, covered my head with a bag and took me to Bagram. They also took my father, my brother and two other guys. I stayed in Bagram until they transported me to Cuba. I am swearing to you that I was doing my work and was busy supporting myself and I was in Pakistan and the hot season I went to Afghanistan. I didn't support Taliban or al Qaida; I didn't know them.

Q: So you were in Afghanistan at the time?

A: Yes.

Q: You said the guards were at your home when you were arrested. What kind of uniforms were they wearing? Were they local militia? US? Who were they?

A: They wore dark military clothes; military like. They wore hats and carried machine guns.

Q: Did you recognize them?

A: Yes. They were American.

Q: You said you were busy with daily work. What was your daily work?

A: I have a general store selling screwdrivers, hardware items, scissors and pliers. On the side of the store I sell cassette recorders and tapes.

Q: How old are you?

A: 26 years old.

Q: Do you know when you were arrested?

A: No, I forgot.

Q: Do you know how long you have been here?

A: Approximately, one year.

Q: Do you know who accused you? Do you know of a neighbor that didn't like you?

A: Neighbor or somebody maybe. In Afghanistan during the current situation, people have a lot of animosity. One of the people between them, were pushed and was imprisoned as an enemy combatant of the government.

Q: You said you gave food to people. I just want to clarify because I'm not sure if I got your answer, because you said that you gave food to strangers as they crossed the border, but you didn't know if they were al Qaida.

A: Yes, that is correct. Personally, I didn't give it to them, my little brother handed the food to them.

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Q: Is that food that you grow on your land or food that you bought at a store?
A: It was food from my home.

Q: Was it a lot of food or something that you would consider significant as far as quantity? Are you talking cases of food or one or two meals?
A: It was two bread and a small piece of dried, cooked bread.

Q: This is a follow-up to his question relating to caring or giving food to people that came across the border. Approximately, how many have you helped that came across the border? And let me correct myself, maybe your family helped, not you personally.
A: I don't know about the others but as far as I know we didn't. This was only one person that came into our village and my little brother helped him.

Q: Can you describe this person a little more in detail? Was he Afghanistan, Pakistan or some other nationality? Is there something else you can tell us about that one person?
A: He was an Arab.

Q: You said your father, brother and Abdul Rockman (phonetic) was captured, arrested and sent to Bagram. Do you know what happened to your brother and father?
A: No, I don't know what happened to them. But I was told that my father and brother went home.

Q: The summary of evidence discusses your family. I would like to know a little bit more about your family. I know you have a brother and a father. Do you have other brothers?
A: Yes.

Q: How many and what do they do to support themselves?
A: We are four brothers. When my brothers were little before these situations at the time of cold season, we were going to Pakistan. One brother stayed at home, one brother took care of the land and two went to work. And when the hot season came we went back. Lately, my brother and I were working at the general store and one of my brothers would stay at home and the other brother would take care of the cattle.

Q: Did your brother work with you in your hardware store, in your general store?
A: Yes.

Q: Your father, what was his occupation? What did he do?
A: My father was at home taking care of the garden and he was busy with his praying.

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Q: Do you know if your brothers or father were associated with Taliban or al Qaida?
A: At the time of Taliban, before President Karsai government, my father worked by collecting logwood and he was selling it to the government. Only our family did not do these jobs, but other people also were doing the same type of jobs and dealing with the government to earn money. It is common in our area because we have a lot of logwood and we collect and sell it.

Q: Firewood?
A: Yes.

Tribunal President: Mohammad Said, do you have any further evidence for this tribunal?

Detainee: In here, I don't know anyone from my country. Who ever I'm seeing in here I have never seen them before.

AUTHENTICATION

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



Tribunal President

Colonel, USAF

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After the Tribunal President explained the hearing procedures to the Detainee, the Tribunal President asked the Detainee if he had any questions concerning the Tribunal process.

Detainee: Yes, I have any questions concerning the Tribunal process.

Tribunal President: What is your question about the process?

Detainee: Since I was working with the government of Afghanistan and I was a worker for the government and I am detained up to now in here for a long time. What is my crime? What did I do wrong?

Tribunal President: That is what this Tribunal will determine, if you are an enemy combatant and that definition has been read to you before. This is not a criminal Tribunal, this is a process to determine whether you are an enemy combatant. We will have an opportunity during this open session to review the unclassified summary of evidence and you can provide more statements on those later.

Detainee: That's good.

Tribunal President: You requested one witness. I understand that witness is Mohammad Akhtiar. Is that correct?

Detainee: Yes.

Tribunal President: I would like to know if you would start your statement about the unclassified evidence before or after we question this witness?

Detainee: After.

Summarized Sworn Detainee Statement

The Personal Representative presented his notes regarding the Detainee's responses to paragraph 3 of the Unclassified Summary of the Evidence (Exhibit R-1).

- *3(a) The detainee is a member of an organization that associated with and supported al Qaida.*

Personal Representative: That is not true.

- *3(a)(1) The detainee originally lived in Afghanistan, but left with his family during the conflict with Russia.*

Personal Representative: That is true. During the conflict with Russia, my entire family left and went to Pakistan. I lived in Afghanistan first in the province of Lugar, the village

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of Moseh, district of Charasab. We left Afghanistan because Russia bombed our home and it was not safe to live there anymore. We went to Pakistan as refugees. I was only a small boy then.

Personal Representative [to Detainee]: Would you like to add anymore?

Detainee: No, I don't want to add any more. This is correct. Whatever he said, but if there were anything wrong, I would correct it.

- *3(a)(2) The detainee returned to Afghanistan in April 2003 and at that time, he became a security guard under the leadership of a local General.*

Personal Representative: Yes, of course it is correct. I did return to join the new Karzai government. I did work as a security guard for an American compound and an Afghanistan compound next to each other. I was a security guard for the government for only ten days and then I was captured on the tenth day. I was only back in Afghanistan for 13 days total. In all, when I moved from Pakistan to Afghanistan it was 13 days.

- *3(a)(3) In his role as a guard, the detainee was issued a Kalashnikov rifle and he was assigned to guard a warehouse used for storing fuel.*

Personal Representative: Yes, this is true. I remember it was a fuel depot, a warehouse that belonged to the government. I am not sure of what was in the warehouse, as I never went in it. It looked like a depot for oil but I never saw what was inside. I can't lie, because the other people, when I asked them, they would tell you that it is an oil depot, but in fact, there was no oil in it. It was empty.

- *3(a)(4) The detainee was captured at the home of a suspected Hezb-e-Islami Gulbuddin (HIG) commander.*

Personal Representative: This is not correct. It was the Americans that captured me. Never was I there at that home. In the house I was captured, it was rented. The night at the house it was Akhtiar Haji and I. I never knew who owned the house, as I was very new to the area, on there 10 days. When we came from Pakistan, we traveled with four people. Safula, Batahaji, Babraq and myself. And Batahaji was a friend of Akhtiar Haji. They were from the same tribe. That's the house we were captured at. That night, I actually went to the house because I had a toothache. And Akhtiar Haji could help. I didn't have any idea that Akhtiar Haji was a commander. He was not a commander. I never asked him because I was new in town and I was a guest in his house. I did not previously know him.

- *3(a)(5) HIG is known terrorist organization that has long established ties to al Qaida.*

Personal Representative: I did not even ever know HIG or what even al Qaida was.

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- **3(a)(6) The detainee is a member of the Itihad Islami (II), a known HIG front organization, and when captured had an identification card.**

Personal Representative: This is not correct. I did not have any card on me. I was not a member of HIG or the Itihad Islami. In interrogation, I told them that, I never had any card. But my other friend, Akhtiar Haji had a card. I told the people that captured me, it was his card. I never even saw the card.

- **3(b) The detainee participated in military operations against the United States and its coalition partners.**

Personal Representative: This is not correct. This is completely wrong.

- **3(b)(1) The detainee, as HIG commander, and his brother have been linked to several attacks against U.S. forces in the vicinity of Jalalabad, Afghanistan.**

Detainee: No, this is not correct. When I came back to Afghanistan from Pakistan, I never even went to Jalalabad. I had only been in Afghanistan for 10 days. How could I be a commander of HIG. I came to join the new Taliban government. Not the Taliban government, but the new government of Afghanistan.

Personal Representative [to the Detainee]: Do you have anything else you would like to add or say?

Detainee: I don't have anything to add because whatever it was I told you and he described it for me. I want to say I came to Afghanistan to join with the new government to support my family and kids. We have to help our government for the future generation and to rebuild Afghanistan. If anybody comes forward as a witness to say that I was a commander opposite of the new government or Afghanistan government, in Afghanistan, Pakistan or anywhere else, or testify that I was a commander and my brother help me against my government and the Americans I am to blame and by my own will I will stay in jail for the rest of my life.

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

Personal Representative: Yes, I do sir.

Tribunal President: Proceed

Personal Representative Questions for the Detainee

Q: When you went to the safe house, did you live there?

A: In which house?

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Q: The house that you were captured in, did you live there?

A: Yes, I was in that house for only one night. At the time my tooth was painful. But when I came recently from Afghanistan, at the beginning of my trip, I stayed four nights in that house until I got the job as a guard at the depot. The very last night when my tooth was painful, I went there and washed my mouth out to make the pain go away.

Personal Representative: That's all I have.

Detainee: I swear whatever I say is the truth and correct because when I came recently from Pakistan, I didn't see Gardez. I can't be a commander because a commander knows the area and familiar with the cities and regions and I'm not that familiar with the area and regions. This is my testimony.

Tribunal President asked the Tribunal members if they had any questions for the Detainee and the members responded they would hold all questions until they heard from the witness.

The Tribunal recessed to bring the witness into the hearing room. The Tribunal President confirmed the witness was the person requested by the Detainee. The Recorder administered the Muslim oath to the witness, Mohammed Akhtiar.

Tribunal President instructed the Detainee that he could ask questions of the witness with the assistance of his Personal Representative.

Sworn Witness' Statement

Detainee: How is it that you know me?

Witness: You were a refugee with us in the same place, in the same bazaar we have our house and I know him.

Detainee: Where is it that you knew me first?

Witness: In Pakistan.

Detainee: In Afghanistan, why did I go to the guesthouse?

Witness: You and your boss and all your other friends were in my house. Your tooth was painful and you went to the doctor to treat the pain in your teeth. After you visited the doctor, you came to my room. I told him you had to stay the night with me and cook a dish for me and pass your night in my house. You were a kind of a soldier in the National Guard.

Personal Representative: I do have one question for the witness, just in case it is not addressed by the Tribunal Team. Did you have an identification card to identify you as a member of Hezb-e-Islami?

Witness: Yes. I had it with me during the last interrogation. They told me that it belong to Hezb-e-Islami, I told them no, it belong to Itihad Islami, you can bring it in here and I will show you. And they said that card belongs to Chaman, but the card belonged to me.

Personal Representative: I have no further questions.

Tribunal Members' Questions for the Witness

Q: Was it your house that was raided that night?

A: That rental house. It can't be my house it was rented.

Q: You were renting the house?

A: Temporary, they give it to me but basically it was not rented by me.

Q: Was Chaman visiting you and was not living at the house?

A: No. He was a member of the National Guard, had a job and his own place to stay.

Q: How long were you living in Afghanistan?

A: Since the month of sout, which is one of the sun orbit months and common in Afghanistan. In that month I was a refugee in that year to Pakistan.

Q: And then you came back to Afghanistan? What I would like to know is how long had you been in Afghanistan before your detention?

A: I was two days in that house.

Q: Two days prior you were in Pakistan?

A: I came in fact one month before but I was in another house.

Q: Did Chaman's tooth get fixed in the house that night?

A: Yes.

Witness [to Tribunal Panel]: I request that you forward my membership card to see that it's my membership card and not Chaman.

Detainee: I don't have that card and it doesn't belong to me. I am not a member of Hezb-e-Islami and my brother is not associated with al Qaida. My request is that these things are not correct and should be removed from my case.

The witness is removed from the Tribunal during a recess.

The Tribunal reconvened.

Tribunal Members' Questions for the Detainee

Q: Did you and the witness come to Afghanistan together?

A: No.

Q: You knew him in Pakistan and just saw him again when you got to Afghanistan?

A: I knew him as much as he was my customer because I had a grocery store and he was a regular customer and no more than that. But as far as me knowing him in Gardez, that is where I got to know him better. I didn't know him in Pakistan.

Q: Why did you come to Afghanistan?

A: My parents gave me advice to go there to work for the government and serve my country.

Q: You have been questioned a lot about this card. Have the interrogators shown you the card?

A: No they didn't.

Q: They just told you they had the card but they didn't show it to you?

A: They didn't show it to me but said that the card was mine.

Tribunal President's Questions for the Detainee

Q: What training did you have to be able to use a rifle?

A: The attendant just placed me over there. They didn't give me any training yet. I had to get a permit with the region and walk around and see and training was supposed to be later on.

Q: So did you have a weapon while you were standing guard?

A: Yes.

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Q: Where was your family while you were detained?

A: In Pakistan.

Q: Do you have a brother?

A: Thank God I have seven brothers.

Q: Was there a brother with you in Afghanistan?

A: No. All of them are in Pakistan. If you are willing, I will tell you each of their names and where they are working.

Q: Do you know if any of your brothers were detained for being a HIG commander?

A: No, not at all.

Q: As far as you know, they are still in Pakistan, free?

A: All of my brothers are in Pakistan. I'm the first brother to go to Afghanistan.

AUTHENTICATION

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



Colonel, USAF

Tribunal President

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Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and had no questions.

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents.

The Recorder confirmed that she had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: Mahbub Rahman, I understand that you called three witnesses for this hearing. The Personal Representative informed me in early November regarding your three witnesses and I determined from the information provided to me that their testimony would be relevant to this Tribunal. I'd like to confirm the identification of the three witnesses. The first witness was identified as Azimullah. Is that correct?

Detainee: Yes.

Tribunal President: Okay. The second witness was identified as Mohammed Salim. Is that correct?

Detainee: I know him by only Salim. I don't know about Mohammed being his name.

Tribunal President: I understand. The third witness, I believe you've identified as Rahman Tulah is that correct?

Detainee: Yes.

Tribunal President: I directed the United States government to attempt to contact these witnesses to provide testimony for you, specifically to ask these witnesses if they would like to provide testimony. Your first witness Azimullah, has been located and has agreed to provide testimony today. After we receive your statement we will ask the witness to come here and provide his testimony later. The second witness Salim, has also been located. Unfortunately he is in another location and last reported to this Tribunal President as being in U.S. custody in Bagram, Afghanistan. We have provided questions to obtain his testimony but as of today's date we have not received a response. I make the ruling that this witness is not available at this time. I've directed the Personal Representative to follow up with Bagram and obtain testimony if it's available. If he does receive testimony, I've directed the Personal Representative to meet with you about that testimony and provide it to me if you so desire at a later time. I would review the

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testimony if provided to me and consider its relevance to this hearing. Your third witness Rahman Tulah, the United States government has not been able to locate. I would like you to provide us a little more information or any more information you have regarding this person identification or who this person is, where you last saw him and so forth, just to clarify our records. Can you tell us more about Rahman Tulah?

Detainee: Okay.

Tribunal President: Please.

Detainee: Rahman Tulah was with me in same Madrassa that I was going to. His tribe is name is Sadarai.

Tribunal President: Do you have a name for the Madrassa?

Detainee: Faizul Quran.

Tribunal President: Thank you. Continue please.

Detainee: He was captured with me on the same day at the same time.

Tribunal President: Can you give us more information on the circumstances of your capture that might help us?

Detainee: Explain the whole situation of how we got captured?

Tribunal President: That would be helpful.

Detainee: When I came from Pakistan to Afghanistan I met with Azimullah and he called him (Rahman Tulah) and he came and saw in the mosque where I was staying by the graveyard. Should I explain the whole situation of how we got captured?

Tribunal President: We are interested in the last person Rahman Tulah. Did you see him at the same time you were captured? Did you see him in U.S. control or Pakistan control or Afghanistan control? Actually, the Personal Representative may have some more information for us.

Personal Representative: Sir, just to let you know, from previous meetings my notes indicated that Rahman Tulah was captured with the Detainee. He was about 25 or 26 years old. He is an Afghani and he was with him (the Detainee) in Bagram. That was the only information he knew at that time.

Tribunal President: The clarification then, I stand corrected, Personal Representative you did meet with the Detainee at a prior time to ask these kinds of questions previously?

Personal Representative: Yes, sir I did.

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Tribunal President: I do know that the United States government did try to follow up on your identification and has not been able to locate this particular person given that information. So, I make the ruling again that witness number three, Rahman Tullah is not reasonably available because we are unable to locate him given the information we have been provided. I would ask the Personal Representative to remind the Tribunal at a later time to assure that we ask the Detainee regarding what this witness would have provided to us if he had been able to make it available for us. Mahbub Rahman, we are now able to proceed to the point in the Tribunal where you can provide us information.

Detainee: Okay.

Tribunal President: With a few more instructions first.

Detainee: Okay.

Tribunal President: You may now present any evidence you have to the Tribunal. Your Personal Representative may assist you if you wish. I understand that you wish to make a statement to this Tribunal, is that true?

Detainee: Yes.

Tribunal President: Mahbub Rahman, would you like to make your statement under oath?

Detainee: Yes.

The Recorder administered the Muslim oath to the Detainee.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

Tribunal President: Before you proceed, just a reminder that this Tribunal has not received any other information other than what we've heard about you today. You may have told the government other things earlier and they may be provided to us later but right now this is all we know.

Detainee: Okay.

Tribunal President: I'd appreciate your statement at this time.

The Personal Representative assisted by repeating the unclassified evidence.

3.a. The Detainee is associated with al Qaida and the Taliban;

3.a.1. The Detainee agreed to spy on the Americans.

Detainee: As of this day, I have never been apart of al Qaida or Taliban. I have never had any kind of relations with them. Also, I have never spied on Americans.

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3.b. The Detainee participated in military operations against the United States and its coalition partners.

3.b.1. The Detainee acknowledged shooting an Afghan Militia Force (AMF) soldier and two civilians in April 2003.

Detainee: I did not shoot any AMF or other Afghans. The people I did shoot were my personal enemies from a personal dispute.

3.b.2. The Detainee directed others to a cemetery used as a staging and hiding area prior to assault on Firebase Salerno.

Detainee: I wasn't waiting in the graveyard to gather more people to fight or take on the American base. I was waiting for my friend Salim. When we met, I could go home and that's why I was waiting there. I was waiting for my friend.

3.b.3. Afghan Militia Forces captured the Detainee and three others on 1 June 2003.

Detainee: That's true that I got captured but I was waiting for my friend, sleeping in the mosque in the cemetery.

3.b.4. When captured, the Detainee had in his possession two AK-47s, bayonets, a binocular, and a spare videocassette for a video camera in the possession of one of the three other captured comrades.

Detainee: All of those other things were not captured with me. The only thing I was carrying was one weapon, which I took from someone else for my personal safety. I do have some personal differences and I have to protect myself. That is why I was carrying that one gun. The second AK-47 belonged to Salim. They were both wrapped in a blanket inside the mosque so when we got captured I did not see it. I don't know if they got both AK-47s or just one. They were in a blanket and I didn't see what happened to it when we got captured.

3.b.5. The Detainee did no surrender willingly; gunshots and grenades were exchanged with the AMF.

Detainee: No, there was no fight. I was sleeping in the mosque when the soldiers woke me up. I asked them what happened and they told me to just get up so they could ask me some questions. I got up and they put me in a car, brought me to the airfield and took me to Bagram and from Bagram I was brought here. So there was no fight. Of all the allegations that were made, only one thing is true and that was about the two AK-47s. I said one was mine and the other was my friend's. Everything else is false. I do have a witness. All the answers I've given to the Tribunal and I told the same thing to the interrogators and I have a witness for every question.

Tribunal President: Mahbub Rahman, does that conclude your statement?

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Detainee: Also, just the answer for the allegations, if the Tribunal wants me to tell the story of how we got captured, I can tell that too.

Tribunal President: It's your choice, if you want to share that with us.

Detainee: I want to tell it.

Tribunal President: Please.

Detainee: I was at the Madrassa close to my home and was going somewhere, so I got in the car. I got in the car first and my personal enemy got in second. He was sitting in the same car and after a while he smoked some hashish.

Personal Representative: Was it a car or a bus?

Detainee: It's a mini coach.

Personal Representative: Okay.

Detainee: So he smoked some hashish and he had a gun with him. He was talking bad to me about my family. He actually grabbed me because we were sitting close. I told him not to touch me or talk to me. I told him to talk to everyone else in the coach. Somebody told me he was an enemy of our family. I told him again not to touch or talk to me but he was still cussing. We argued with each other and then we started fighting. He went to reach for his gun. I told the people in the coach that he has a gun and he's going to kill me because he killed my brother before. He was reaching for his gun and I grabbed for it too. We fought for it and after some time the gun was in my hands. We got off the coach and I ran from him so I could get the weapon far from him because he was going to use it. He ran after me and I told him don't come because I was scared that if he got the gun he would shoot me. I told him to stop and he didn't stop. I didn't have a choice and I shot him. The other people in the coach told him to leave me alone because I was just a kid. He told them not to come close to us and if they did he would shoot them also once he got the gun from me. When I shot at him I shot at his legs. I threw the gun down and ran from that place. Afghan soldiers came after me. I don't know if they close to that area or how they knew but they came after me. They called for me to stop and fired at me. I got hurt on one of my fingers. I ran from those soldiers to another village and I hid. Finally I decided not to go back home so I went to Pakistan for just a short time to get away from the area. I got to Pakistan and went to the Madrassa. I was living there in the Madrassa. I was going to the mosque to pray and back to the Madrassa for two months. My brother came to Pakistan looking for me. We don't have any relatives in Pakistan so he knew that I wasn't with anyone that we know. He knew that in Afghanistan I was going to a Madrassa that's why he was looking in different Madrassas. Finally he found my Madrassa and he was telling people that I ran away from home and that they were trying to make peace with our enemies so I needed to come back. I wasn't in the Madrassa the day when he came. When I came back to the Madrassa people told me that there was a person looking for his brother. I heard other people saying this but I didn't tell them that it was me that he was looking for. I went to ask the teacher of the Madrassa if I could go home. He didn't let me go home because it was the middle of the class.

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He said when I finished my scroll I could go. I stayed and after a while he let me go home. I told the teacher the whole story about what had happened because he wanted to know why I was going. I told him that one person killed my brother and what happened to me so I ran away. I told him that my family didn't know where I was and since my brother came and said that they were going to make peace with our enemy; I want to go home. I want to be there with my family and let them know how I was doing. Finally, I said that I could go home. There was a bus station outside the Madrassa that I used to go home. The teacher came with me to the bus station and he told the driver that I was going home to Afghanistan and asked if I had money for it. I told him that I had 200 Pakistani Rupees. He took that from me and I think he gave it to the driver. He told the driver to take me to my home in Afghanistan. First the driver took me to one house before we went to my house. We spent the night there and left the next morning. There were two other staying in that house that night also. One was named Salim and I don't know the other person's name because I didn't know either of them before. When we left in the morning those two guys came with us. Since there is no road to go quickly, it was all mountains, dirt roads with rocks so we were going slowly. Each time I asked the driver how far, he would say that's all we can go and now we could go by feet. He said it's not that far and I could go by feet. The other two people left the bus too. One was Salim, and I don't know the other one. I asked them where they were going and the one person who said his name was Salim, said that his tribe Enokro (ph) and he was going to Khost. I asked the driver that since I was going by feet and I still have enemies could I borrow his gun and he said yes. He told me that once I got home to give the weapon to Salim. When I got to Khost and I told him that I was going home they said no just to wait here because we are going to another village Kundiu (ph) and will be back. I went to Azimullah, he was in the Madrassa, because we were hungry. I also asked him if he could direct these people to Kundiu (ph) because I was tired and I couldn't walk with them. Azimullah also called (inaudible) and we stayed in the mosque. The mosque was in the cemetery. We spent the night in the mosque, in the cemetery and the next morning Salim said let's go to the village. Azimullah, Salim, and I went to the village and Salim stayed in the village. He told me to wait for him in the mosque in the cemetery. He said once he got there he would get the gun from me (the one I got from the driver) and then I could go home. We waited in the mosque for him but he didn't come. We stayed there the whole day and then night came so we just stayed in the mosque. Azimullah was there with me. We slept in the mosque. This is how the Afghan soldiers found us. They woke us up. That is the whole story. All of the accusations about the videotape and the camera and spying on Americans aren't true. None of it is true.

Tribunal President: Okay. At this time I would like to take a short recess to bring in your first witness, who I believe has been waiting.

Detainee: Okay. My witnesses knows the whole story. This is the story and they were with me. You can ask my witness about any of it.

The Tribunal President explained the witness procedure to the Detainee and called for a short recess to allow the witness to be brought into the room. The Tribunal was reopened after the witness was present in the hearing room.

Tribunal President: Azimullah, good afternoon.

Witness: Thank you.

Tribunal President: Mahbub Rahman, is this the witness that you requested?

Detainee: Yes.

Tribunal President: Azimullah, we require that you take an oath before you provide your testimony and an oath is a promise to tell the truth. Will you take that oath?

Witness: Yes.

The Recorder administered the Muslim oath to the witness.

Tribunal President: Mahbub Rahman, you may ask the witness your questions to provide the testimony that you desire and your Personal Representative may assist you of course.

Personal Representative's questions to witness:

Q. How do you (Witness) know Mahbub Rahman?

A. We were in the same Madrassa. That's how we know each other.

Q. Were you with Mahbub Rahman before you were captured?

A. We were captured separately. We were captured in separate places.

Q. Before that time were you together?

A. Yes.

Q. Can you describe the circumstances of the time you were with Mahbub Rahman prior to the capture?

A. The day before we got captured we were together.

Q. What were you doing on that day?

A. We were together. We didn't do anything. We were just hanging around.

Q. Okay. Do you know why Mahbub Rahman was staying in the mosque which is inside the cemetery?

A. We was waiting for another friend. He was with me but he was staying there to wait for that friend.

Q. Okay, were you hiding in the cemetery?

A. No, he wasn't hiding. He was waiting and staying there for that friend to show up.

Q. Okay, do you know why Mahbub Rahman traveled from Pakistan to Afghanistan?

A. He came to visit home. He wanted to visit his family.

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Q. From the time that you've known each other, have you ever known Mahbub Rahman to have fought with the Afghani Militia Force?

A. No, he never fought.

Personal Representative: Okay, that is all the questions that I have. Unless you (Detainee) have other questions that you want ask record.

Detainee: Ask him to explain to the Tribunal anything?

Tribunal President: You can ask the Witness any question you desire.

Detainee: Can you tell the Tribunal that when I came from Pakistan and I met you and told you why I was here in Afghanistan? Can you tell the Tribunal what I told you.

Witness: He told me that [he] came here to go home and visit his family. Those were the only reasons.

Detainee: Can you tell the Tribunal did I ever fight Afghan forces or anyone else or shot anyone?

Witness: No, he didn't tell me that he fought with someone nor have I heard that he fought with someone.

Detainee: When I was staying at the mosque in cemetery, can you tell the Tribunal if I was there waiting to fight the Americans or was I waiting for Salim to come and meet him?

Witness: The only reason he was still in there was not [to] fight with anyone or do anything else but he was waiting for Salim with me. He was waiting for Salim to come and meet.

Detainee: Could you tell the Tribunal then when I came for Pakistan to Afghanistan, did you see anything with me like video or video cassette or anything like that with me?

Witness: No, I did not see it with him and he did not have anything with him.

Detainee: Can you tell them that when I came from Pakistan to Afghanistan, did I come to spy on either on the Americans or on Afghan forces? I wasn't associated associated with any Taliban or al Qaida. Why did I come?

Witness: No, he did not come to spy on Americans. He isn't associated with Taliban or al Qaida. The only reason [he] came was to see his family.

Detainee: That's all.

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

Personal Representative: I have no further questions sir.

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

Recorder: No sir.

Tribunal President: Does the Tribunal panel have any questions for the witness?

Tribunal Members' questions to the Witness:

Q. I understand that you were with the Detainee the day before you were captured. Did you know him before that time?

A. Yes.

Q. How long?

A. I don't exactly how long but we were studying in the same Madrassa together.

Q. For a year, ten years, or a month?

A. A year or a year and a half or somewhere like that.

Q. Do you know if he had any military training at all?

A. No, he never had any military training.

Q. Did you see him with a weapon on the day before you were captured?

A. I did not see a weapon with him.

Detainee: No, they mean the time when I came from Pakistan to Afghanistan. In that time, did you see a weapon with me?

Witness: Yes, I saw a weapon with him at that time.

Tribunal Member: So when you were together the day before you were captured you saw him with a weapon?

Witness: Yes.

Tribunal Member: Why did he have a weapon?

Witness: I don't know why he was carrying a weapon.

Tribunal Member: Did you ask him?

Witness: No, I didn't ask him.

Detainee: When I was coming from Pakistan, I told you (Witness) why I had the weapon. What did I have it for?

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Witness: He told me that he got that gun for his personal safety because he had some personal/family enemies and he wanted to go home safely.

Tribunal President: (to the translator) Please advise the Detainee, Mahbub Rahman that he can ask follow up questions later but later. I would like the panel (member) to finish his questions first.

Detainee: I'm sorry.

Tribunal President: That's fine. (To the Tribunal Member) Continue.

Tribunal Member: Where exactly were you apprehended? What city?

Witness: We did not get captured together. We were captured in separate places.

Tribunal Member: Do you know where he was apprehended?

Witness: Yes.

Tribunal Member: Where?

Witness: In that mosque in the cemetery.

Tribunal Member: I don't know yet where that mosque is.

Witness: The area doesn't really have a name because there is no village close to it. There is just a cemetery and a mosque in the cemetery.

Tribunal Member: What's the nearest city?

Witness: There is a village that is very far from the area and I don't know village the name.

Tribunal Member: I really have no idea of where we are talking about yet. Can you just give me the closest large city in Afghanistan?

Witness: Khost.

Tribunal Member: Was there an American base near by?

Witness: The place where he got captured there was no close base.

Tribunal Member: Did you know why Mahbub went to Pakistan?

Witness: No, did not hear that information.

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Tribunal Member: Okay. Was there anyone else with Mahbub at the mosque when he was arrested?

Witness: Yes, there was one other person with him.

Tribunal Member: Did you know that other person before?

Witness: Yes, I know him.

Tribunal Member: Okay. What other possessions did Mahbub have with him at the time of his arrest?

Witness: No, I didn't hear any information on that.

Tribunal Member: Do you know the name of the person with Mahbub when he was arrested?

Witness: Machma Daila (ph/inaudible).

Tribunal Member: You said that you knew Mahbub Rahman at the Madrassa. What was the Madrassa's name?

Witness: The area where the Madrassa is located is Shinkai.

Tribunal Member: Okay. How long were you together in the Madrassa?

Witness: Like one month together.

Tribunal Member: Why were you traveling to Afghanistan?

Witness: It's my country and I was in Afghanistan.

Tribunal Member: Oh okay. But you did travel with Mahbub?

Witness: No, we did not travel anywhere else. (the next sentence was inaudible)

Tribunal Member: Did you have a weapon when you were captured?

Witness: No, I did not have a weapon with me.

Tribunal President: Mahbub Rahman, do you have any further questions for the Witness?

Detainee: Sorry I interrupted the questions because when he answered he thought you were asking him about long ago when we first knew each other. That's why I said no the time when I went to Afghanistan, did you see a weapon with me, and all the information.

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Tribunal President: Okay. I think we've clarified the answer. Did you have any more questions for the witness?

Detainee: No.

The Tribunal President called for a short recess to allow the witness to be removed from the room. The Tribunal re-opened recess with the witness absent from the room.

Tribunal President: Mahbub Rahman, we are now to the point of the hearing where we can ask you some questions. Personal Representative, do you have any questions for the Detainee?

Personal Representative: Just one question sir. Mahbub, can you explain to the Tribunal a little bit more your personal enemy? What was the reason for you having this personal enemy? Explain that in some more detail.

Detainee: I had an older brother; I was a kid at the time and don't remember when he died. My parents and my brothers and sisters told me the story that my brother was a soldier. One person had a dispute with him and killed my brother. My parents knew who killed my brother but me and my brothers and sisters didn't know who killed our brother. After a longtime when I was at that Madrassa (inaudible phrase) this one person was coming to the mosque. During wheat season people would cut wheat for the money and to get a share of the wheat and I knew this same person from working wheat and mosque. That day when I was going on that coach, this person that I knew from wheat and the mosque was there and my enemy was there also. That person asked me if I knew who killed my brother and I said no. He pointed to this other person and said that this was person who killed your brother. I was at that Madrassa for a longtime and I finished that and then I went to another Madrassa so for a longtime I did not see him again. One time in my house, I have brothers that live in Arab countries where go they go to make money and support the family. My family was going to send me to a village because one person came from the same country that my brother was in and my family sent me to ask him when he was going back so we could write a letter and he could give it to my brother. They told me when I finished with school to go find that person and then tell the family when he is going back so they could write the letter. So I went after school to find the person and the address I had to a store was closed when I got there and I did not find the person. I was coming back and I switched vehicles because the one I was on wasn't going back to our house. When I got on the second vehicle it was going to a bazaar after our village but it was going through our village. The driver told me that he's not going to the bazaar all the way because I was the only one. He said that he would take me if he found some more people he would go straight all the way to the bazaar and drop you at your home. If not, I'm just going to turn back and you can find another taxi. He found more people and one of them was the person that was my enemy and he had a gun with him. We were going and he was smoking hashish and I guess he got high and starting talking trash about my family. I won't say all the things that he told me. That's why I told him to stop. I knew he was my enemy and now he's smoking hashish and maybe he had a gun also and I got scared. That's how the whole thing happened after that. He didn't stop. He said you're just a kid why are you talking to me like that. I could kidnap you and nobody would ever find you. I told him about my family, my parents and brother and he could not do anything to me. He said oh no, I've killed a lot of people and there is no one who comes and asks me why I

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did it. So I guessed he was referring to my brother that he killed and nobody asked him about it. That is why he was saying that he killed a lot of people and no one asked him any questions. He didn't stop talking and I was trying to stop him and finally we started fighting each other. He had a gun and went to grab it and I saw and knew that he got the gun he would be able to shot me so grabbed the gun and called for help.

Personal Representative: We understand that. But were you aware that three people were killed during that fight?

Detainee: No. The soldier and the two civilians I did not kill anyone. It's not true. I mentioned my story because they were saying that there was one Afghan soldier in the allegations. I thought they maybe referring to my enemy. That's why I tell the whole story that he got injured. I did not kill him. The allegation about the three people is not true. It never happened.

Personal Representative: That's all the questions I have sir.

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

Recorder: Just a couple sir.

Tribunal President: Please proceed.

Recorder's questions to the Detainee:

Q. Your personal enemy, was he a military soldier?

A. No.

Q. The gun that you used, was it your AK-47 or his gun?

A. It was my enemy's gun.

Q. Where was your AK-47 when you were captured?

A. It was in the mosque. I was waiting for my friend Salim so I could give it to him so I could go home. That's why I was waiting for him.

Tribunal President: Does the Tribunal board have any questions for the Detainee?

Tribunal Members' questions to the Detainee:

Q. What I don't understand yet is how does Rahman Tulah fit into all of this?

A. What do you mean?

Q. What role did he play in this story?

A. We were together in the Madrassa before, not now so I know him from that time because Azimullah called him and he came.

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Q. Was he with you when you were apprehended then?

A. Yes, he was in the mosque with me.

Q. Was he apprehended too?

A. Yes.

Q. Is there a Fire Base or any sort of U.S. base near this mosque?

A. No, there is no close base to the place.

Q. Salim, was he apprehended as far as you know?

A. He got captured with Azimullah together, with that group not with me.

Q. Why was that group captured as far as you know?

A. I don't have any information on why they got captured.

Q. So what would Salim be able to tell us that Azimullah hasn't already told us?

A. You mean any allegations that I explained to you?

Q. What does Salim know about what happened that Azimullah doesn't know?

A. He could tell you why I came to Afghanistan and how we traveled together and how I was waiting for him to give that weapon. Also, he can tell you that two of the AK-47s, one was his personal and the other one I was going to give to him also.

Q. Have you ever had any military training?

A. No.

Q. Have you ever been trained on how to use a rifle prior to the shooting incident?

A. No, I never had any training and nobody taught me.

Q. Did you know the enemy who you shot before?

A. Yes, that one person that told me before and that day he also was trying to kill me also and he didn't stop.

Q. But you never met this individual before that time he was pointed by his gardener?

A. No.

Q. What type of gun did you shot your enemy with?

A. With a Kalashnikov.

Q. How many rounds did you fire?

A. I'm not sure if I did two or three. But I wasn't shooting at him I was shooting the ground in front of him so he stopped and didn't follow me. I guess a bullet got to his leg.

Q. Did you know the name of your personal enemy that you struggled and fought?

A. I don't know his name.

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Q. Okay, I just wanted to clarify that.

A. I don't know the name.

Q. Your personal enemy was smoking hashish. Were other people smoking hashish on the bus as well?

A. Since he was sitting close to me, I saw him smoking but I didn't see anyone else smoking.

Q. Was your personal enemy in a uniform or any part of a uniform?

A. No, just regular clothes.

Q. Were there any other people on the bus or that vehicle that had uniforms?

A. No.

Q. From the information given to us, you were captured in June of 2003 and date isn't really important but how many months prior to your capture were you attacked or fired on your enemy?

A. Approximately two months. I went to the Madrassa for two months and I came back for two months.

Q. Okay, I'm just trying to understand the time. You remember the Unclassified Summary of Evidence talked about spying on the U.S. Have you ever said anything about watching Americans during other interviews or interrogations since your capture?

A. No, I never told them and the only thing I told them was that I just came home from Pakistan and once I saw my family I was probably going back.

Q. I understand. I'm talking before you're altercation with the personal enemy, the American forces had been in Afghanistan for over a year. Have you ever described any time that you watched Americans while they were working with the Afghan government?

A. No, I never told them and I never did any spying. So why would I tell them?

Q. I wasn't using the word spy. But watch Americans as they went around their business of working with the Afghanistan military and government. Were there any times when you talked about that during interviews?

A. No, I never told them but the Americans are there. When we go to the bazaar, they do have a place where work like the airport. You can see them. I've seen Americans in the area before.

Q. How old are you?

A. They asked me the same question before and I told them we don't follow any dates in Afghanistan and then they say just guess. I tell them maybe 19, 20, 21.

Tribunal President: Rahman, do you have any other evidence to present to this Tribunal?

Detainee: What kind of information?

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Tribunal President: It's a question we ask to see if you any other things you want to provide us, any written statement, any other document or anything you would like to provide to us.

Detainee: No, I do not have anything else. I told the Tribunal that I got captured and now the Tribunal can find out why I got captured and why I'm being held here all this time.

Tribunal President: I do have one thing I'd like to cover first. I believe one Tribunal member asked what Salim would have testified if he were here and I understand that it was pretty much the same testimony that you already received from Azimullah. I would like to ask what you think Rahman Tulaf (ph) would have provided if he had been to attend today?

Detainee: He would at least tell the Tribunal that when we got when captured, like in the allegations, that there was a fight. He can tell you that there was no fight. We were sleeping and they woke us up.

Tribunal President: Okay, thank you. And the Personal Representative has something to add.

Personal Representative: Sir, with regards to Salim, I believe the expectation of his testimony was that he would testify that the weapons found on Mahbub were actually Salim's weapons in his possession but were not his weapons.

Tribunal President: I understand. Personal Representative, do you have any other to present to this Tribunal?

Personal Representative: No, sir I do not.

The Tribunal President confirmed with the Personal Representative that he had no further evidence and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

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


Colonel, USAF

Tribunal President

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