

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOHAMMAD NECHLE, *et al.*)
)
)
 Petitioners,)
)
 v.) Civil Action No. 04-CV-1166 (RJL)
)
)
 GEORGE W. BUSH,)
)
 President of the United States, *et al.*,)
 Respondents.)
 _____)

DECLARATION OF JAMES R. CRISFIELD JR.

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

1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mohammad Nechle that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify other detainees and the family members of detainees, as well as certain U.S. Government personnel in order to protect the personal security of

those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 278 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0278
27 October 2004

From: Director, Combatant Status Review Tribunal

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

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

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

A handwritten signature in black ink, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

Distribution:

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4949

27 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #13 of 4 October 2004
(2) FBI memo of 26 October 2004
(3) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal substantially complied with all provisions of references (a) and (b). Note that some information in exhibits R-24 to R-26 was redacted. The FBI properly certified in enclosure (2) that the redacted information would not support a determination that the detainee is not an enemy combatant. Based on the location and extent of the redactions in exhibit R-4 we can be confident that none of the redacted information would support a determination that the detainee is not an enemy combatant.
- d. The detainee requested four witnesses.¹ Three were produced and testified at the Tribunal. The U.S. State Department sought to locate the other witness but was unable to find him. Due to the inability of the State Department to locate the witness, the Tribunal President determined that he was not reasonably available. In my opinion, the Tribunal President's decision was not an abuse of discretion.

The detainee did not request any other evidence.

- e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

¹ Interestingly, the Detainee Election Form only lists three witnesses, all of whom were produced to testify. The Tribunal Decision Report does not indicate how the fourth witness request was made.

UNCLASSIFIED

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

- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN

Memorandum



To : Department of Defense Date 10/26/2004
Office of Administrative Review
for Detained Enemy Combatants
Capt. Charles Jamison, OIC, CSRT

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
[REDACTED]

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

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

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

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 04/30/2002
FD-302 dated 05/21/2002
FD-302 dated 07/14/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

4952
Enclosure (2)

Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 10/26/2004

If you need additional assistance, please contact
Asst. Gen. Counsel [REDACTED]
[REDACTED] or Intelligence Analyst (IA)

IA



Department of Defense
Director, Combatant Status Review Tribunals

4 Oct 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #13

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

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

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

MEMBERS:

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

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

[REDACTED] Commander, U.S. Navy; Member

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



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

20 October 2004

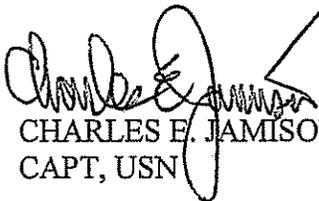
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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


CHARLES E. JAMISON
CAPT, USN

(U) Combatant Status Review Tribunal Decision Report Cover Sheet

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

(U) TRIBUNAL PANEL: #13

(U) ISN#: [REDACTED]

Ref: (a) (U) Convening Order for Tribunal #13 of 4 October 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

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

1. (U) This Tribunal was convened by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 19 October 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee # [REDACTED] is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of, or affiliated with, al Qaida, as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).

[REDACTED]

Colonel, U.S. Army
Tribunal President

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #13
ISN #: _____ [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with al Qaida. The Detainee is a suspected terrorist with ties to the Algerian Armed Islamic Group (GIA) and is suspected of having links to al Qaida. The Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia. The Detainee is an associate of a known al Qaida operative in Bosnia. The Detainee is also known as Sharfuldin or Sharuldin. The Detainee chose to participate in the Tribunal process. He called four witnesses, one of whom was found to be not reasonably available. The Detainee did not request any documents be produced, and made a sworn verbal statement. The Tribunal President found 3 of the requested witnesses reasonably available. With regard to the witness found not reasonably available, the Tribunal President also found that alternative means of producing the witness's testimony were also not reasonably available, in that the requested witness could not be located by the U.S. Department of State in time for the Tribunal. The Detainee, in his verbal statement, denied being a terrorist, associated with al Qaida and a member of GIA. The witnesses called by the Detainee testified that the Detainee was not a terrorist, but rather was an upright man who worked with orphans in Bosnia through the Red Crescent organization. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-33.

b. Testimony of the following persons:

- 1. [REDACTED] (ISN [REDACTED])
- 2. [REDACTED] (ISN [REDACTED])
- 3. [REDACTED] (ISN [REDACTED])

c. Sworn statement of the Detainee.

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

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED]	reasonably available	yes
[REDACTED]	reasonably available	yes
[REDACTED]	reasonably available	yes
Mohmoud Sayed Yousef	not reasonably available	no

Mohmoud Sayed Yousef was proffered by the Detainee as the Detainee's supervisor in the Red Crescent in Bosnia who would testify, if called, to the Detainee's work with the Red Crescent, the Detainee's good character and that he had no knowledge of any association by the Detainee with any terrorist organizations. While determined to be relevant, the Tribunal President found that the witness was not reasonably available in that after a period of reasonable diligence the Department of State could not locate the witness in Bosnia or in any other location based on the limited information and identifiers provided by the Detainee to locate the witness.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1, R-2 and R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 contains an affidavit of the Detainee's wife, [REDACTED], submitted in the habeas corpus proceedings pending in the United States District Court for the District of Columbia seeking the release of the Detainee and [REDACTED] (ISN [REDACTED]). [REDACTED] averred that the Detainee was an employee of the Red Crescent in Bosnia, was wrongly accused but

released by Bosnian authorities and then abducted by American agents, and is not a terrorist. Exhibit R-3 purports to be a Petition for a Writ of Habeas Corpus seeking the release of the Detainee and [REDACTED]. The copy presented to the Tribunal does not bear a docket number and is unsigned, but is dated 08 July 2004. Exhibit R-3 appears to be based on the affidavit of the Detainee's wife and other sources and sets forth legal arguments supporting the issuance of the writ. The Tribunal noted the allegations contained in the Petition but did not find them persuasive to the question of the Detainee's status as an enemy combatant. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence and to provide further light on the allegations contained in the writ pleadings.

b. The Tribunal also considered the Detainee's sworn testimony and the sworn testimony provided by the three detainee witnesses. A summarized transcript of the Detainee's sworn testimony and the sworn testimony of the witnesses is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee and the witnesses testified as follows:

(1) The Detainee: The Detainee appreciated the opportunity to address the allegations and the freedom to speak to the Tribunal and defend himself. The Detainee stated the reason he is being held in Cuba is because of charges brought against him in Bosnia related to an intent to plan an attack on the US Embassy. He was in prison in Bosnia for 3 months; that he was the victim of a political game without any intention to carry out an attack on the US Embassy; that if there were any truth to these allegations he would not have been taken by the Bosnians but would have been taken directly by the Americans and that this is proof of a political game. After 3 months in prison, Bosnia TV aired the fact that he was found innocent in the Bosnian court and to live free without conditions. The Detainee claimed that the acquittal was in his pocket when he was arrested; that he was surprised to be taken by the Americans; that his hands and feet were bound and he received the worst treatment of his life being without food, water and sleep for 36 hours. Since he's been in Cuba for 3 years, no one has ever asked him about the US Embassy. The Detainee maintains that he has cooperated with interrogators and has discussed the charity organizations but now finds himself faced with the strange accusation that he is al Qaida. He states that he only knows about al Qaida through the media and that it is an organization that kills innocent people. The Detainee believes that Islam is innocent of such acts and that he has lived his life as a good person as he was brought up by his father and that his heart doesn't allow for hatred; that his business was taking care of orphans. He stated that since over 70% of al Qaida has been caught, why can't any of them identify him. He believes that GIA is a terrorist group and if he were a member of that group, the Algerian government would know it and that the Algerian government told the Bosnia government that Algeria did not have him as a terrorist in Algeria. The Detainee stated that he worked for the Red Crescent; that it is not an NGO; that he worked outside of Sarajevo; that he met many people who worked in Red Crescent who can say what he did; that Sharfuldin is his other name and it is normal to have other names. Finally, the Detainee asserted his innocence in terrorism and that he has been wrongly accused.

The Tribunal President inquired about the alleged mistreatment of the Detainee after he came into US custody. The Detainee stated that it was harsh but that he wanted to just let it go; that his treatment and the conditions have become better in the last year and that he was ill when he first arrived in Cuba and received some treatment but that his condition was untreated for some time after he arrived. The Tribunal President noted these statements for the record and caused a report of these allegations to be made through the chain of command.

(2) [REDACTED]: This witness stated that he would speak for the Detainee if the Detainee wanted him to, but that his lawyer said he should not speak to a tribunal. The Detainee asked the witness to testify for him and the witness agreed. The witness testified that he knows the Detainee like he knows his own pocket; that he knows his wife and children and that if the Detainee has anything to do with terrorists then the witness is a terrorist himself; and that if the Detainee were sentenced for terrorism then the witness would stay with him. The witness stated that he never knew the Detainee to be a member of GIA or involved in terrorism in any way; that he has know the Detainee since 1995 or 1996 and that he knows him as well as he knows his own wife and kids.

(3) [REDACTED]: This witness testified that the allegations that the Detainee is associated with al Qaida, the GIA and terrorists are all lies; that he has known the Detainee since they were in Albania and has never known him to be a terrorist; that he and the Detainee worked together in the Red Crescent in Bosnia; that he has known him since 1994.

(4) [REDACTED]: This witness testified that he would tell the truth about the Detainee and stated that all the accusations were false; that the Detainee is not a terrorist and is not part of GIA; that all he has ever know about the Detainee were good things since he met the Detainee in 1997; that the Detainee is concerned about his family and work and never broke the law; that if the Detainee is a terrorist then the witness is a terrorist too.

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

6. Consultations with the CSRT Legal Advisor

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

7. Conclusions of the Tribunal

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

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

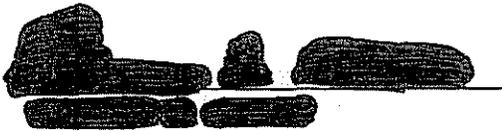
b. The Detainee understood the Tribunal proceedings. He actively participated in the proceedings, provided his own testimony and examined the witnesses called by him.

c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with, al Qaida and was part of or supporting al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

A large, dark, irregularly shaped redaction mark covering the signature area.

Colonel, U.S. Army
Tribunal President

Summarized Unsworn Detainee Statement

The Tribunal President read the Hearing Instructions to the Detainee. The Detainee confirmed that he understood the process.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal and gave a brief description of its contents. A closed session was requested at a later time to present classified evidence to the Tribunal.

The Detainee requested to take the oath before making his statement. The Recorder administered the oath.

Before I would like to address the accusations I would like to take a moment to thank the members of the Tribunal for giving me the chance to come and speak on my behalf. And this shows freedom of speech and the right to defend yourself.

In the beginning I would like to talk about the reasons for my presence in Cuba before I talk about the accusations. Maybe you saw in my file that I was accused in Bosnia of terrorist activities. Planning to attack the U.S. Embassy in Sarajevo. The accusation was the intent to plan to attack the U.S. Embassy. As if they went into a person's heart and tried to find out what they were thinking and then came up with this accusation. We were detained in a prison in Bosnia and we were interrogated there for three months. We were the victims of a political game. This political game has no proof that we had intended to carry out an attack against the U.S. Embassy. I would like to make clear that if this was a real accusation, if it were true that this was a matter regarding national security of the United States; from the first day they would have taken me from my home to America. Five percent proof, that I had anything against the United States, they would have taken me from my house to the United States, so that I could be tried in America because this is a matter regarding the American Embassy. Which is proof that this is a political game first of all. The second thing is that I stayed in a Bosnian prison for three months. And they were waiting for an American to come and interrogate us. No one came to the prison and no one interrogated us. This is proof that this is a political game between the Bosnian government and the American government. In the end, after three months, after the interrogations, and after they asked us everything, Bosnian television aired the fact that they we found innocent by the court. So we were in prison and acquitted in prison. These people are to be released immediately without any conditions and to live in Bosnia as free people. Unfortunately, when we were released (inaudible), and maybe you have a copy of it here. You must have it, because it was in my packet when I came here. So when we came out of prison we were surprised that we were handed over to the American forces that are present in Bosnia. We were bound by our hands and our feet and we were treated the worst treatment. For 36 hours without food, sleep, water or anything and we were treated the worst treatment. We came to this place so they could interrogate us. Now I have been here for three years. Unfortunately I thought the case was about an American embassy and up until now no one has directed one question towards me regarding this case. In spite of the fact they told us this case was about the

American Embassy, we were surprised by the fact that this is not about the American Embassy. I asked my interrogators, then why am I here. He said forget about the fact that you were here because of the American Embassy or because you're from al Qaida or because you are a terrorist. I said, "You told the world that you had proof against that we were involved in an attack against the American Embassy." He said to forget this because in Bosnia nothing happens, we know this. You came here to give us information about relief and rescue operations in Bosnia. So we were surprised and in spite of this we cooperated with the interrogators. We talked about these charity organizations and we cooperated to the fullest extent with these interrogators. In the end we were faced with strange accusations that are not backed with any proof. We were from al Qaida (*referring to paragraph 3 of the Unclassified Summary*). We were members of al Qaida in Bosnia. We're part of the Armed Islamic Forces (*referring to paragraph 3.1*). This al Qaida, I only knew it through the media, that's it. This al Qaida is a terrorist organization that kills innocent people and we are against the killing of innocent people. We were very, very upset at the events that happened in America before. I imagine that the people in these buildings (*the World Trade Center*) could be my brother or my father or my sister or my son. Islam is innocent of these actions. It is innocent of the actions that these individuals carried out without any reason. My father taught me how to do good and how to treat people right. I was brought up in my house with good principles and how not to harm anyone or do anyone any harm. In my whole life I never did harm to anyone with my tongue by talking so how could I harm anyone with my hands. This is how I was raised in my house: helping people and loving people. So my heart does not allow any evil to be in it. To say you are part of al Qaida or you're terrorist, my heart does not allow for this. My father when he used slaughter or kill chickens I used to cry. I used beg him please don't kill these chickens so how can I be a part of this terrorist activity or organization. Even my work that I do in Bosnia and Herzegovina is with orphans and taking care of orphans. I took care of these orphans, and I gave them compassion and care and I'm there in place of their father or their brother. I used to hold the orphans in my hands and give them food or nutrition until they reached a certain age. So how can my heart hear any evil or wrongdoing? So I am innocent of these of accusations that do not have any relation or anything to do with me. I asked one of the interrogators one day. "Did you say that have captured 70% of the members of al Qaida?" He said yes yes we have captured 70% of the members of al Qaida. I told him, "Good. That's excellent! Take my picture and my information and take them to these people and ask them am I from al Qaida or am I not from al Qaida. You will feel better and I will feel better." That's it, he told he would try he will ask and so on. Al Qaida kills even the Muslims themselves. In the studies it said that the buildings had 700 Muslims in them and they all died. Are they not Muslims? So al Qaida kills even Muslims. Islam is innocent of these things. People think wrongly of Islam. Islam should be presented to people on a plate of gold not a plate of fire. Islam has taught me to respect my neighbor even if he was Christian and to visit him if he were sick. If he died, I'd go to his funeral. Because he is human, the same race as me. That is what I was taught and that is what my father taught me in our house. Also, regarding this Armed Islamic Group (*paragraph 3.1 of the Unclassified Summary*), this is also a terrorist group. I thought that one day I would go to Algeria to visit my family. The Algerian

government knows about all the members and knows everything about the Armed Islamic Group. How could I be part of the Armed Islamic Group and be able to travel to Algeria? I would have gone there and been executed. I would have been afraid to go to Algeria if I was a member. So this matter is not true. The Bosnian government said to the Algerian government, these people are part of the Armed Islamic Group come take them from us. The Algerian government said no these are not terrorists and they're not part of the Algerian Armed Islamic Group. Try them if you have anything against them with you. If you don't have anything on them, release them as innocent people. Is that not proof? This is important proof that the government itself knows that we are not part of the Armed Islamic Group. You have been interrogating me now for three years. You have asked everything about me even the stones and the trees (an expression). You have asked everything of me and thank God you know that I'm not from al Qaida. You say I have classified evidence. I would say yes you do have classified evidence, but it shows that I am innocent of this accusation. I don't have any relationship with these things at all. That is what regarding this matter about terrorism. I don't have anything to do with this and I am innocent completely of these accusations.

Paragraph 3.2. Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia.

Regarding the third accusation where it says that you met with the Algerians in the Red Crescent Society. Met with Algerians working for non-government organizations. Regarding this matter, the Red Crescent is a known government organization. It does not have any relationship with non-government organizations. These non-government organizations they work together and they have coordination between them and they just work together. So we don't have anything to do with at all. If they needed anything, they could confer with our management who would not attend as a member of this government organization because that's not allowed. I used to work outside Sarajevo in a city called Dehughe. I never met with any Algerians in any non-government organization. I used to have meetings with members of the office. The manager, Macmuseth (ph) and he's an Egyptian, Imin Faghe (ph) he's an accountant. (inaudible) he is the manager of the office in Tusla which is another city. Nocfmid (ph), he is present here and he is responsible for the office in Sarajevo. He is the only Algerian that was working with me in the Red Crescent. I did not meet with anyone besides these four. We used to meet once a month and discuss matters regarding the orphans. Everything is recorded at the office. The meeting, when it was, the members that attended the meeting, and what was said during the meeting, everything was recorded. You can get in contact with Sarajevo and talk to the manager there. Government organizations also they have their own specific meetings. Non-government organizations have their own meetings and I did not attend any of those. I never attended any of their meetings. You can ask the manager. You can ask Sarajevo. That is my answer to the third accusation.

Paragraph 3.4. The detainee is also known as Sharfuldin or Sharuldin.

Regarding the accusation that says your name is Sharfuldin. Not Sharuldin, it's a mistake. But, it's the first one Sharfuldin. In the Arab countries it's not a problem, it's not abnormal and it's very common for people to be called by names other than their names like Abdul something, which is the father of something. Or, to be called by another a name that you're known by. For example, my brother's name is [REDACTED] (ph). I call him [REDACTED] (ph). My friends call him [REDACTED] (ph). (inaudible). My name is Mohammed but they used to call me Sharfuldin. This is something very normal. It's not something that I hide and I'm not hiding anything regarding this matter. Even in Bosnia, when dealing with anyone, I always used my real name Mohammed Nechle and my cards say Mohammed Nechle. My papers and dealings with government are in my real name. Only when I went to Dehugue, when I was with the orphans in Dehugue. Dehugue is very far from Sarajevo and they have their own accent or dialect. It's close to Croatia. So that's why their accent or dialect is close to Croatian so when I went there I told them that my name Mohammed Nechle and some of the orphans laughed at this. I asked them why are you laughing? The word Nechle, what we know of the Nechle is that it means congestion, like when you have a cold and you're stuffed up. That's what it means. So they were laughing. I told them okay you call me Mohammed, Mohammed Sharfuldin so you can stop laughing. Call me that. Only the orphans used to call me that. No one else used to call that. Ask one of the orphans there at Sum Dehugue you can make sure of that fact. I don't have any aim or anything regarding an alias. I'm not hiding anything. That's what I have to say to about these accusations. I am innocent of these accusations. I don't have anything to do with terrorism or anything like that.

Believe me, I came to this place as a mistake and I think that I was wronged. It was unfair to me. I always used to wonder why am I here. Especially when the interrogator used to tell me that we want information from you about these organizations and you are innocent. And you present me with these accusations that have anything to do with anything. I have a clear conscience that I am not a part of these terrorist organizations. I am not afraid of anything because I am not a terrorist. If you interrogated me for 20 years you would find that I am Mohammed Nechle. God as my witness, as God as my witness, as God as my witness. I thank you.

The Tribunal President confirmed that the Detainee's statement had concluded. The Personal Representative had no questions. The Recorder had questions for the Detainee. The Tribunal members had the following questions:

Tribunal Members' questions

- Q. Would you please tell me something about your education.
- A. You mean when did I finish my education?

Q. Yes and far along did you go?

A. I got to high school. The last thing before college. Then I stopped with my studies. I freed myself for trade.

Q. What kind of trade did you work in Algeria?

A. Vegetables and fruits. When my father was sick I used to help him. That was my job.

Q. Did you have any military service while in Algeria?

A. No. I had an excuse from that duty.

Q. Did you receive military training in any other country?

A. No.

Q. When did you join the Red Crescent?

A. In Albania I worked with the Red Crescent. Until I was captured until Bosnia.

Q. So at what time did leave Algeria to go to Albania what year?

A. 1995.

Q. When did you into Bosnia from Albania?

A. I lived in Albania and then when the civil war occurred in Albania I asked to transfer from the Albanian office to the office in Bosnia, through the main office in Abu Dabi (ph), in the United Arab Emirates. The security situation was not very good in Albania. So they transferred us directly from Albania to Bosnia. That's it.

Q. When you joined the Red Crescent, did you join it just for Albania or did you join it in the International Red Crescent?

A. The United Arab Emirates Red Crescent. Before that it was called the Abu Dabi (ph) organization and then it became the Red Crescent. Just the Emirates. It's main office is in Abu Dabi.

Q. Do you know where the main office is for the Red Crescent is? Not just in Abu Dabi?

- A. In the capital in Abu Dabi. The exact location I don't know. You can call and ask about it.
- Q. The point I'm trying to get to is, are they all under one main organization?
- A. The Red Crescent?
- Q. Yes, in Albania, in Bosnia...
- A. The main office is in Abu Dabi. Sheik Zaiat Ima Hil, is the president of that countries office. It has branches in the world. In Albania, in Bosnia, Khezikikistan (inaudible), Kosovo. Many countries
- Q. Throughout the Muslim world?
- A. Just about. Poorer countries like Albania.
- Q. When you told us that you worked with orphans, children without homes. What was your official title or duty with the Red Crescent?
- A. I was there for the aid of the orphans. I would give help. I visited orphans in their houses or distributing food to them. Teaching them computers in the English language. Complete help in all aspects. Social help mostly.
- Q. Did you receive a regular salary?
- A. Yes, about \$1, 000 a month. The cost of living in Bosnia is high so it really wasn't that much. I used to rent a house for \$200. I would end up saving about \$100 or \$50 a month. My work was more than that because I wanted to help people. It was more of a voluntary nature. If money was important to me I could have been making \$10, 000 but this was enough for me to live with my wife and my kids.
- Q. So your wife and family were with you in Bosnia and lived with you?
- A. Yes.
- Q. From 1995 to the present?
- A. Yes they were with me in Albania and then moved with me to Bosnia.
- Q. Did anyone else live in the house with you other than your family?
- A. No just my wife and my children.

- Q. The \$1,000 a month salary. You were saying \$200 for rent and you saved about a \$150. Not to be exact but where did the rest of the money go?
- A. \$200 for the rent for the house. Gas, electricity, and telephone about \$150. Gas for the car about \$100, it's expensive. And the rest was for the house like food and drinks and stuff like that. Like I said, it was a simple amount.

Tribunal President's questions

- Q. I just have one question. You talked about what happened to you in Bosnia when you were turned over to the Americans. And you talked a little bit about abuse there. I understood you to say that it was at the hands of the Americans.
- A. The Americans were in kind of a war against terrorism. So anyone in that situation would have been treated badly. I excuse them for that treatment. I just told you that we were not treated in a humane manner. We were not caught in Afghanistan or any place like that, we were caught in Bosnia. We were taken from our houses. Now I have many illnesses that I never had before. It was difficult. We were treated in a harsh manner, but we were supposed to be treated better than that because we had been acquitted. We don't have any relationship with terrorism or anything like that. So what I was saying is that I wish we would have been treated better on the way here and given food and water. Even the bathroom was forbidden from using it on the way here. The way was about three days and during the three days they just gave us some apples, that's all we ate. When I got here I was sick for about a month or a month and a half from exhaustion. I used to think that America had respect for human rights when it comes to prison. That's all I have.
- Q. Was there any physical abuse while you were in transit?
- A. It's not a problem. Just leave it. We weren't beaten for no reason, but our hands were bound like that (looking down at his handcuffed wrists). Even that used to stop you. You couldn't feel your hands. This part (referring to his wrists) is numb right now I can't feel anything. But it's not a problem it's passed.
- Q. I appreciate your excusing it, however it is a concern of ours.
- A. I excuse them because of the war that they were in and because of the events that happened in America. Anyone would have probably done the same thing if they were in their place. We were just victims to this.
- Q. How have you been treated since you have been here in Cuba?
- A. It's changed in the last year. It's better than before. There is improvement in the treatment.

- Q. When you arrived here sick, did you receive treatment for your illnesses?
- A. In the beginning they didn't treat me. I asked them to treat me and they left me for a long time without treatment. I had a hemorrhage, that's what I had and I talked to them about that. I used to tell them there was blood; I was bleeding. I used to tell them about it time after time and just left it. I had problem with it and they told me that they didn't have any doctors here. They said they to call America and have bring over specialists. So this comes here and now they have all these doctors. A person comes here...A person comes here healthy and then he leaves with all these illnesses. Besides the fact that your future, the way that came here; your image is tainted in the world because of the way that you brought here and the media how they depict it. I was a respectable person living in Bosnia. People used to respect me and had good relations with people. I had great respect. In the end the way that this happened, the way I was brought here and the accusations that brought against me, I feel that my future has been destroyed. A person does not even know what to say to their kids now. Your father, why is he in Cuba, because he has accused of terrorism. That's a really big thing. I just hope that you are fair in my case and that you take everything into consideration. I swear to that I am innocent. I have been wronged and I don't have anything to do with terrorism or anything like that. Thank you.

The Tribunal President thanked the Detainee for participating in the Tribunal and confirmed that he had presented all the evidence that he intended to present. The procedure for the witnesses the Detainee requested to have make statements on his behalf were explained. The first witness was then brought into the Tribunal.

The first witness was brought into the Tribunal. He confirmed his name for the record and was then administered the oath.

Detainee's questions to witness [REDACTED] (ISN [REDACTED])

Detainee: When I got to Bosnia from the year 1997 until now did I ever any relationship or anything to do with terrorism or al Qaida or the Armed Islamic Forces? Or am I a terrorist or not? Please explain to the Tribunal.

Witness: I would like to tell them something first. I got a letter from an American lawyer last week and it said do not participate in this Tribunal and anything you say in this Tribunal will be used against you. Don't even speak with the Personal Representative. So I'm asking you. If you want me to talk I will talk. If you don't want me to talk I won't talk.

Detainee: I got the same message from the lawyer but I have chosen to participate in order to clarify these points and defend myself. So you can say your testimony.

ISN# [REDACTED]
Enclosure (3)
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Witness: From the day I knew Mohammed, I know him as well as I know my pocket. As well as know my wife and my kids. If Mohammed has anything to do with terrorism, so I must also have something to do with terrorism. If Mohammed is a terrorist then I am for sure a terrorist. If you were to sentence him to prison for terrorism then I would wish to stay with him. I've known Mohammed in my life to have any relationship with terrorism rather it's terrorism or rather it's this Armed Islamic Group, there is completely no relationship. Terrorism is on this side and Mohammed is on this side.

The Detainee had no further questions for the witness. The Personal Representative had no questions. The Recorder had no questions for the witness.

Tribunal Members' questions to the witness [REDACTED]

Q. How long have you known the Detainee?

A. Approximately '95 or '96 end of '95.

Q. Do you know him both personally and professionally or just through work?

A. I don't understand the question.

Q. Do you know him socially as well as through work?

A. We don't work together. When we met, he worked at the Red Crescent and I worked at another place.

Q. Where did you work? In 1995 to 1996?

A. You asking me?

Q. Yes I am.

A. Then I won't answer. This is Mohammed's Tribunal not [REDACTED] Tribunal. When it's my Tribunal, I will answer.

Q. I seek to understand how well you know Mohammed Nechle.

A. I told you I know him as well as I know my wife and kids. I don't have an answer better than that.

Q. How many kids does Mohammed Nechle have?

A. Two.

Q. What hobbies does Mohammed Nechle have?

A. These are very strange questions.

Q. I am trying to establish how well you know Mohammed Nechle.

A. What I know about Mohammed. I know that he likes soccer, cars, bikes, things like that.

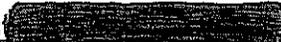
The Tribunal members had no further questions for the witness. The Tribunal President thanked the witness and concluded the question and answer session. The next witness was brought in before the Tribunal. The Tribunal President asked the witness to state his name. The witness replied:

You know my name. You have my name.

Tribunal President: We need to verify for the record

 (in English)

The Tribunal President confirmed that the witness was there to testify on behalf of the Detainee. The oath was then administered to the witness. The Tribunal President explained the procedures for his testimony.

Detainee's questions to the witness  (ISN# )

Detainee: I need your testimony because they have accused me of being a terrorist and of being a member of the Armed Islamic Group.

Witness: They are lying.

Detainee: From the time I was in Albania until now, was I ever related to terrorism or the Armed Islamic Group or anything like that?

Witness: Never. Never.

Detainee: They accuse me of meeting with Algerians in non-governmental organizations when I was working for the Red Crescent. Do I have any meetings with anybody besides the people in my office or anyone who was working for a non-government organization?

Witness: Never.

Detainee: That's it.

The Tribunal President confirmed that the Detainee has concluded his questions for the witness. The Personal Representative had the following question:

Personal Representative question to witness [REDACTED] (ISN [REDACTED])
Personal Representative: Yes.

Witness: It that your Personal Representative (said to Detainee)? They are lying. Another person came to me and told me he was your Personal Representative.

Detainee: No. They changed Personal Representatives.

Personal Representative: Please explain your working relationship with Mohammed while you were in Sarajevo. You worked together. Please explain.

Witness: He worked with me I worked with him. He worked in the city. I worked in the Capital. He did not work in Sarajevo. He worked outside of Sarajevo. We did the same work with orphans. He worked with orphans in the place he was in and I worked with orphans in the place I was in. Do you have anything else to ask me (said to the Personal Representative)?

Personal Representative: No.

Witness: Next who (said to the room in general)?

The Tribunal President asked if the Recorder had any questions for the witness.

Recorder: No.

Witness: I am here to testify. Ask me (said to the Recorder). It's for my brother that's all.

The Tribunal members had the following questions for the witness:

Tribunal members' questions to the witness [REDACTED] (ISN [REDACTED])

Q. In what year did you first meet Mohammed Nechle?

A. '94 in Albania.

Q. Was he working for the Red Crescent then?

A. Yes.

Q. Were you his supervisor or co-worker?

A. We had the same job.

Q. How many children does Mohammed Nechle have?

A. That is the question? This something regarding him? He has a boy and girl.

The Tribunal President thanked the witness and concluding the question and answer session. The next witness was brought in before the Tribunal.

The Tribunal President confirmed that the witness was there to testify on behalf of the Detainee. The oath was then administered to the witness. The Tribunal President explained the procedures for his testimony.

Detainee's questions to the witness [REDACTED] (ISN [REDACTED])

Detainee: They accused me of something. I would like you to testify. They accused me of being a member of al Qaida in Bosnia and that you were part of the Algerian Armed Force Group and that you were a terrorist. So I would like you to testify and tell the truth about what you know about me. I thank you.

Witness: Truthfully, all I know is good. Since I've known him in 1997 until the day we were imprisoned here, I don't know anything about him but good. He is a man who was very involved and concerned with his children and his family and in his work. The whole time I knew him, I never knew of him to break any law in the country that we were living in. I never knew of a terrorist act to be related to him. Rather it was in the country we were living in or any other country. I never knew that he had wronged anyone or had been unfair to anyone in any one of these days. We were all very surprised at the accusations that they place against when they handed us over to the Americans. Therefore, he is not related in any way to any of these things. I know him as well as I know myself. If he is a terrorist then I am a terrorist as well because I know him as well as I know myself. That's what I have.

The Tribunal President confirmed that the Detainee had no further questions for the witness. The Personal Representative had the following question:

Personal Representative question to the witness [REDACTED] (ISN [REDACTED])

Personal Representative: How did you come to meet Mohammed in Bosnia?

Witness: I knew him in '97. He was an Algerian like me so I met him and I got to know him. He was working with the Red Crescent. He's Algerian and I'm Algerian so we got to know each other and relationship continued. From that day until the day we were imprisoned we've known each other.

The Tribunal President confirmed that the Recorder had no questions for the witness

The Tribunal members had the following questions for the witness (ISN [REDACTED]):

Tribunal members' questions to the witness [REDACTED] (ISN [REDACTED])

Q. Do you come from the same part of Algeria as Mohammed?

A. Yes.

Q. Did you know his family or his relations where you came from?

A. No I don't know his family but his family is known in the city as well as my family name is known around the city.

Q. Was there a large Algerian community in Bosnia?

A. What do you mean?

Q. How many other Algerians were there in Bosnia that you knew of and associated with?

A. I think there is but I'm not sure exactly how many but I'm sure that there is.

Q. Did Mohammed associate with the other Algerians in Bosnia?

A. From what I know of the people that he knew are the same people that I know and they are here; [REDACTED] and [REDACTED]. It was very limited knowledge of other people.

Q. Mohammed has told us that he worked with the orphans under the Red Crescent and tried to help the orphans. Do you know what Mohammed did with his free time with his spare time?

A. He lives far away from Sarajevo. I live in the capital of Sarajevo and he lives in a city far away from Sarajevo, so I don't know exactly what he does. When he would come to Sarajevo every month maybe one or two days we would meet up. Say hi how are you, how are you doing. We would go to a café and drink coffee or go to a restaurant and eat. Things like that.

Tribunal President questions to the witness [REDACTED] (ISN [REDACTED])

Q. You said that you were imprisoned in Bosnia with Mohammed.

A. Yes.

Q. What do you think led to your imprisonment? Why did they suspect you?

A. The matter is very simple. The events that happened in American on September 11th were very important and great events (great as in big). And any person who has a heart would have upset at this matter. Any person who helped or supported these events is a terrorist. Any person who has a humane heart would be upset at these events that led the death of many people, children, women, men, young people. So many countries wanted to help the United States in anyway that they could. Bosnia wanted to give help but it gave help in the wrong way. Bosnia didn't have anything to turn over so they found this group of Algerians. They said okay this is a group of Algerians living there and there is terrorism in Algeria so here we go. All these words that the government said is wrong or irrelevant because the High Court said that we were innocent and they acquitted us. That's the reason.

The Tribunal President thanked the witness for participating in the Tribunal.

Also I thank you for listening to me as well as my brother Mohammed.

This concluded the witness phase of the Tribunal.

The Tribunal President asked if the Detainee had anything further to add before the Tribunal was concluded.

I have a question and I have a suggestion at the same time. I asked a lot of people who have gone through Tribunals, a lot of them are in Camp 4, so I got the chance to ask to them and everyone who has gone a Tribunal, most have been Enemy Combatants. Even the others in Camp 1 and Camp 2 and they've all be Enemy Combatants. I haven't seen anyone who's been innocent in any of this. So just want to ask, have you found anyone innocent yet and if you haven't there's no need for these Tribunals just say that everyone is an Enemy Combatant. If it's possible to answer you can answer but if it's not it's no problem.

Tribunal President's response:

I would say that each case is judged on its own merits. I can't speak to the other Tribunals but we will look at your case as fairly as we can.

The Detainee thanked the Tribunal President and posed the following suggestion:

Maybe in the Tribunals there could be a clock on the wall. So that the Detainee can look at it and see how long he's been speaking, how long the Tribunal went on. Just a suggestion.

Tribunal President: I can tell you that we probably don't look at a clock just because we are here to listen to what you have to say and however long it takes is fine.

Detainee: It's not a problem. Just that I know how long I talk, like 15 minutes, half and hour just to know. But it's not a problem if the Tribunal is two, three hours it's no problem.

The Tribunal President confirmed that the members of the Tribunal had no further questions.

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.

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

Colonel, United States Army
Tribunal President

DETAINEE ELECTION FORM

Date: 19 Oct 2004

Start Time: 1300 hrs

End Time: 1400 hrs

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? MODERN ARABIC

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? READ TO HIM

Detainee Election:

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

Personal Representative Comments:

The Detainee will participate in the Tribunal and he will orally address the Tribunal. He will take the Muslim oath and he will answer questions. He will also call three detainee witnesses to testify on his behalf. All three will take the Muslim oath and answer questions, they are: 1) ISN# [REDACTED] 2) ISN# [REDACTED] 3) ISN# [REDACTED]

Personal Representative: [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (23 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – NECHLE, Mohammed.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida.

The detainee is associated with al Qaida:

1. Detainee is a suspected terrorist with ties to the Algerian armed Islamic group (GIA) and is suspected of having links to al Qaida.
 2. Detainee is a former employee of the Red Crescent Society and attended meetings in Sarajevo for Algerians working for non-government organizations in Bosnia.
 3. The detainee is an associate of a known al Qaida operative in Bosnia.
 4. The detainee is also known as Sharfuldin or Sharuldin.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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EXF

AFFIDAVIT OF [REDACTED]

I, [REDACTED] resident of [REDACTED] Algeria, being duly sworn, depose and state as follows:

1. I am the wife of [REDACTED] He is being held in Guantanamo Bay.
2. My husband is an Algerian citizen.
3. I married my husband in October 1995, in Albania, where he was working with the Red Cross (Red Crescent) of the Emirate of Abu-Dhabi.
4. I have two children. My children and I have had to live with my parents for the past while, because my husband is not there to help take care of the family. This has been very difficult on the whole family.
5. After we spent two years in Albania, he was moved to Bosnia-Herzegovina to work there instead, with the same organization. He worked continually in that job for the next four years until his arrest and subsequent abduction.
6. My husband was arrested in Bosnia on October 20, 2001. He spent three months in prison. At that point, the Bosnian court ordered his release.
7. However, even though he had been declared innocent and ordered freed, my husband was simply abducted -illegally- by American agents.
8. Since that time, apparently my husband has been held in Guantanamo Bay.
9. I have not been able to find out why he is being held. I know that my husband is innocent of any terrorism. My husband is opposed to violent acts of all kinds, and is a peaceful person. He never showed any kind of hatred towards the Americans.
10. I know that my husband would want me to take all steps possible to help secure his release and I therefore wish that *Justice in Exile* and the *Center for Constitutional Rights* take all legal steps possible in my interest and the interest of my husband.

Sworn to by the deponent on this ___ day of June, 2004.

[REDACTED]

06-29-04P03:36 RCVD

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Miss [REDACTED]
[REDACTED]
[REDACTED] LGERIA

Greenhouse Bunk
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reference

SIR CLIVE STAFFORD SMITHE
24/06/2004
DEAR SIR.

MY HUSBAND,S CASE JAILED IN GUANTANAM

I WOULD LIKE TO EXPOSE MY CASE TO YOU AFTER MY HUSBAND HAD BEEN ARRESTED

HE IS NOW IN GUANTANAMO, HE IS NAMED [REDACTED]
[REDACTED] LET ME INFORM YOU THAT WE GOT MARRIED ON OCTOBER 1995 IN ALBANIA WHERE HE WAS DEVELLING AYRAR BEFORE . HE WAS WORKING FOR THE RED CROSS FOR THE EMIRAT OF ABU-DHABI. AFTER WE HAD SPENT 2YEARS IN. ALBANIA WE WENT TO BOSNIA HERZEGOVINA. HE HAD THE SAME JOB AS IN ALBANIA I MEAN HE WAS WORKING FOR THE RED CROSS FROM 1997 TELL THE DATE OF HIS ARREST BY AMERICANE AGENTS 2 0/10/2001 AFTER HE SPENT 03 MONTHS IN PRISON IN BC.SNIA. THE COURT OF JUST.CE OF BOSNIA SENTENCED HIM INNOCENT. AFTER BEING ARRESTES BY THE AMERICAN AGENTS HE WAS TRANSFERED TO GUANTANAMO IN SPITE OF THE JUSTICEDECISION ROHICH DECLARED HIM INNOCENT OF THE AACCUSAL OF BELOUGING TO A TERRORIST GROUP PREPARRING ATTKAS AGAINST THE AMERICAN EMBASSY IN BOSNIA SINCE THEN, HE IS TREATED AS ALL PRISONNENS WITHANT BEING ABLE TO HAVE A LAW YER NEITHER RIGHT OF BEING JUDGED. EVEN THE MAIL STOPPED SINCE AUGEST 2003.

WITH MY TWO DAUGHTERS WE HAVE BEEN AT MY PARENTS HOME WITHANT ANY RESOUCES TO SATISFY THE NEED OF MY CHILDREN.

I WOULD BE GREATLLY GRATEFUL TO YOU IF YOU COULD PROWDE ME WITH AHE EPEING HAND. TO FREE MY HUSBAND WHO NEVER COMMITED A TERROREST ACT AND WHO HATES THAT A PERSON KILLED ANOTHER PERSON FOR ANY REASON. MY HUSBAND IS APLACEFUL PERESON WHO NEVER SHOWED ANY KIND OF HATE OR DISISE AGAINST THE AMEFICAN.

I, AMVERY CONDENT AND I TRUST YOU COULD BE ABLE TO FIND SOLUTION TO MY SITUATIOPN.

AWAITING FOR AN ANSWER FROM YOU RECEIVE MY BEST REGARDS.

[REDACTED]
[REDACTED]

[REDACTED]

AFFIDAVIT OF [REDACTED]

I, [REDACTED], being duly sworn, depose and state as follows:

1. I am the wife of Mohammed Nakhla. He is being held in Guantanamo Bay.
2. My husband was born on the 2nd of April, 1968. He is an Algerian citizen.
3. My husband is a tall man with black hair, and black eyes. He has blond marks on his cheeks.
4. My husband is originally from Lighthouse, Algeria.
5. My husband worked for the Red Crescent (the equivalent of the Red Cross) of the United Arab Emirates. He worked for three years in Albania, and five years in Bosnia. His job was to help orphans.
6. We lived in Bihartch, which is about 600 km from Sarajevo, for five years. He would only go to Sarajevo when asked to do so professionally by his boss, and he would stay about three months there when he would go.
7. We were in Bihartch on October 19, 2001, at approximately 6 p.m. The police came and took my husband. They did not tell us what they were looking for. They held him, interrogating him, for 24 hours.
8. There was an inquiry that lasted three months, they were judged innocent of any wrongdoing by the High Court in Bosnia Herzegovina. My husband was ordered released.
9. However, at the time he was to be freed, my husband was simply abducted [REDACTED] entirely illegally [REDACTED] by American agents. This happened when I, along with others, was waiting for him to be freed, along with others who had apparently been falsely accused.
10. Since that time, apparently my husband has been held in Guantanamo Bay. Despite our efforts, we have not been able to find out why he is being held. I know that my husband is innocent of any terrorism.
11. I know that my husband would want me to take all steps possible to help secure his release.

Guantanamo
FILE COPY

06-24-04A09:38 RCYD

CRSS

Dear Sir,

Husband's name is : NECHLA Mohammed
 Date of birth : April, 2nd, 1968
 Place of birth : Laghouat, Algeria

He worked for: The Red Crescent of the United Arab Emirates (U.A.E).
 He worked for five years in Bosnia and three years in Albania.
 He was a responsible of the orphans.

We lived in a city named Bihartch which is 600 km far from Sarajevo.
 My husband went to Sarajevo only when his boss asked him and just for professional purposes. Each time he stayed three months there. We lived in Bihartch for five years till October 19th 2001 at 6: PM. The police came home to look for I don not know what my husband had been taken into another room alone he was asked many questions I don't know about what. The investigations lasted til. 24 h. My husband had been taken by the police that night without knowing the real reasons for his arrest, two others Algerians were accused of committing acts against the U.S.A. embassy and Great Britain Embassy in Bosnia.

They were judged by the High Court of Bosnia Herzegovina. After an inquiry they were debarred innocent and were released after three months of jail.
 After they had been released from prison they were kidnapped by Americans agents thought the court of justice had declared them innocent. The kidnapping happened next to the prison where we were waiting welcome my husband and other prisoners.

My husband is a tall man with black hair and black eyes. He has blond points (marks) on his cheek and a full stop.
 He is now imprisoned in Guant Anamo.
 We don't know why. My husband is innocent of committing terrorist acts against any country of the world
 We got married on May 20th in Laghouat, Algeria.



Unclassified

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

[REDACTED])
Detainee, Camp Delta;)
[REDACTED])
as Next Friend of)
[REDACTED])
MOHAMMED NECHLA,)
Detainee, Camp Delta;)
[REDACTED])
as Next Friend of Mohammed Nechla,)
Petitioners,)

PETITION FOR A WRIT
OF HABEAS CORPUS

v.

No. _____

GEORGE WALKER BUSH,)
President of the United States)
The White House)
1600 Pennsylvania Ave., N.W.)
Washington, D.C. 20500)
DONALD RUMSFELD,)
Secretary, United States)
Department of Defense)
1000 Defense Pentagon)
Washington, D.C. 20301-1000)
ARMY BRIG. GEN. JAY HOOD,)
Commander, Joint Task Force - GTMO)
Guantánamo Bay Naval Base, Cuba)
c/o United States Army,)
Army Pentagon)
Washington, DC 20310-0200)
ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta,)
Guantánamo Bay Naval Base, Cuba,)
c/o United States Army,)
Army Pentagon)
Washington, DC 20310-0200)

(continued on next page)

UNCLASSIFIED

Respondents,)
)
)
)
)

*All sued in their official
and individual capacities.*

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioners [REDACTED] and Mohammed Nechla seek the Writ of Habeas Corpus. Mr. [REDACTED] acts on his own behalf and through his Next Friend, [REDACTED], his wife. Mr. Nechla acts on his own behalf and through his Next Friend, [REDACTED], his wife. Petitioners [REDACTED] and Nechla (the "Detained Petitioners") are citizens of Algeria being held *incommunicado* in Respondents' unlawful custody in Delta Camp, Guantánamo Bay Naval Station, Cuba ("Guantánamo Bay").

I. JURISDICTION

2. Petitioners bring this action pursuant to 28 U.S.C. §§ 2241 and 2242. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1651, 2201, and 2202; 5 U.S.C. § 702; as well as the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, and customary international law. Insofar as they seek declaratory relief, Petitioners also rely on Fed. R. Civ. P. 57.
3. This Court has authority under 28 U.S.C. § 2241 to grant the Writ of Habeas Corpus. This Court has authority under 28 U.S.C. § 2242 to entertain the petition filed on Mr. [REDACTED] behalf by [REDACTED] as his Next Friend, and on Mr. Nechla's behalf by [REDACTED] as his Next Friend. Pursuant to 28 U.S.C. § 2201 this Court has authority to declare the rights and other legal relations of the parties herein, and under 28 U.S.C. § 2202 to effectuate and enforce declaratory relief by all necessary and proper means, as this case involves an actual controversy within the Court's jurisdiction.

II. VENUE

4. Venue is proper in the United States District Court for the District of Columbia, since at least one Respondent resides in the district, a substantial part of the events or omissions giving rise to the claim occurred in the district, at least one Respondent may be found in the district, and all Respondents are either officers or employees of the United States or any agency thereof acting in their official capacities. *See* 28 U.S.C. §§ 1391(b); 1391(e).

III. THE PARTIES

A. [REDACTED]

5. Petitioner [REDACTED] is an Algerian citizen incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo Bay. *See Exhibit A*, Affidavit of [REDACTED] [REDACTED] incorporated by reference herein, attached to Affidavit of Stephen H. Oleskey, Esq. ([REDACTED]).
6. Petitioner [REDACTED] is the wife of Petitioner [REDACTED] [REDACTED] Aff. ¶¶ 1-2.) They were married in Albania in October, 1995. (*Id.* ¶ 3.) They have two children together. (*Id.* ¶ 4.) Since Mr. [REDACTED] has been detained, Ms [REDACTED] and the children have faced many difficulties. (*Id.*) She seeks to act as his Next Friend by bringing this Petition.

B. Mohammed Nechla

7. Petitioner Mohammed Nechla is an Algerian citizen presently incarcerated and held in respondents' unlawful custody at Camp Delta, Guantánamo Bay. *See Exhibit B*, Affidavit of [REDACTED] and attachments thereto, incorporated by reference herein, and attached to Affidavit of Stephen H. Oleskey, Esq. ([REDACTED]).
8. Petitioner [REDACTED] is the wife of petitioner Mohammed Nechla. [REDACTED] Aff ¶ 1.) She seeks to act as his Next Friend by bringing this Petition.

C. Respondents

9. Respondent George W. Bush is the President of the United States and Commander in Chief of the Armed Forces of the United States. Mr. [REDACTED] and Mr. Nechla are being detained

pursuant to the Executive Order promulgated by him on November 13, 2001, *see Exhibit C*, Order on Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism, November 13, 2001, attached to Affidavit of Stephen H. Oleskey (“Detention Order”), or alternatively, under his authority as Commander in Chief and under the laws and usages of war. Accordingly, Respondent Bush is responsible for Petitioners’ unlawful detention. He is sued in both his official and personal capacities.

10. Respondent Rumsfeld is the Secretary of the United States Department of Defense. Pursuant to either the Detention Order or the President’s authority as Commander in Chief and under the laws and usages of war, Respondent Rumsfeld has been charged with maintaining the custody and control of the Detained Petitioners. He is sued in both his official and personal capacities.
11. Respondent Hood is the Commander of Joint Task Force-GTMO, which operates the detention facilities at Guantánamo Bay. He has supervisory responsibility for the Detained Petitioners and is sued in both his official and personal capacities.
12. Respondent Cannon is the Commander of Camp Delta at Guantánamo Bay. He is the custodian immediately responsible for their detention, and is sued in both his official and personal capacities.

IV. STATEMENT OF FACTS

A. Petitioners’ Detention

13. The Detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants in any context involving the citizens, government or armed forces of the United States.
14. The Detained Petitioners are not, nor have they ever been, “enemy combatants,” who were “part of or supporting forces hostile to the United States or coalition partners in Afghanistan and who engaged in an armed conflict against the United States there,” *see Hamdi et al. v. Rumsfeld, Secretary of Defense, et al.*, No. 03-6696, slip op. at 8-9 (June 28, 2004) (internal quotations omitted), or anywhere.
15. Petitioners seek a judicial determination of the adequacy of the Respondents’ determination

that the Detained Petitioners are “enemy combatants.”

16. Until shortly before Respondents unlawfully detained him, Petitioner ██████████ had worked for the Red Crescent of the Emirate of Abu-Dhabi since at least 1995. ██████████ Aff. ¶ 3.) The Red Crescent is the arm of the International Federation of Red Cross and Red Crescent Societies, which operates in Islamic countries. See International Federation of Red Cross and Crescent Societies available at <http://www.ifrc.org/who/movement.asp>. In October 2001, at the time of his arrest and detention in Bosnia and Herzegovina (“Bosnia”), Mr. ██████████ had been living and working there for four years. (██████████ Aff. at ¶¶ 5, 6.)
17. Following his arrest, Mr. ██████████ was held in pre-trial detention in Bosnia for three months, but was then ordered released from confinement on January 17, 2002, by the investigating judge of the Supreme Court of Bosnia and Herzegovina, who had determined there were no further reasons or circumstances upon which pre-trial detention could be ordered. See ██████████ et al. v. Bosnia and Herzegovina, et al., Nos. CH/02/8679; CH/02/8689; CH/02/8690; CH/02/8691, H.R. Chamber for Bosnia and Herzegovina, at ¶ 53 (Oct. 11, 2002). See Exhibit D to Affidavit of Stephen Oleskey, Esq. [hereinafter “H.R. Chamber Decision”].
18. Contrary to the judge’s Order, however, Mr. ██████████ was not released, and instead was immediately taken into custody by the Federation Police of Bosnia and Herzegovina under the authority of the Federal Ministry of Interior. *Id.* at ¶ 55. These forces, and forces of the Ministry of the Interior of Sarajevo Canton, then handed over Mr. ██████████ to U.S. forces at 6:00 a.m. on January 18, 2002. *Id.* United States forces then flew Mr. ██████████ out of Bosnia and delivered him to what was then called Camp X-Ray at Guantánamo Bay. *Id.* Ms. ██████████ has not been able to learn since that time why her husband is being held. ██████████ Aff. at ¶ 9.)
19. When he originally was detained, Petitioner Nechla, like Petitioner ██████████, worked for the United Arab Emirates’ Society of the Red Crescent. ██████████ Aff ¶ 5.) He worked as an aid worker, helping orphans. (*Id.*) Mr. Nechla and Ms. ██████████ had lived in Bihartch, Bosnia, for approximately five years. (*Id.* at ¶ 6.)

20. On October 19, 2001, Mr. Nechla was arrested by police in Bihartch, Bosnia. [REDACTED] Aff. ¶ 7.) He was held and interrogated for approximately twenty-four hours. (*Id.*) Mr. Nechla was then held in pre-trial confinement for three months, but then ordered released on January 17, 2002 by the investigative judge of the Supreme Court of Bosnia and Herzegovina, also on the ground that there were no further reasons or circumstances upon which pre-trial detention could be ordered. *See* H.R. Chamber Decision at ¶ 53. Like Petitioner [REDACTED] and in the same fashion, Mr. Nechla was delivered on January 18, 2002 to U.S. forces in Bosnia who transported him to Guantánamo Bay. (*Id.* ¶57.)
21. In the wake of the September 11, 2001 terrorist attacks, the United States, at the direction of Respondent Bush, began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized Respondent Bush to use force against the “nations, organizations, or persons” that “planned, authorized, committed, or aided the terrorist attacks on September 11, 2001, or [that] harbored such organizations or persons.” Authorization for Use of Military Force, Pub. L. 107-40, 115 Stat. 224 (Sept. 18, 2001).
22. On November 13, 2001, Respondent Bush issued an Executive Order authorizing indefinite detention without due process of law (the “Detention Order” referenced top of page 4). The Detention Order authorizes Respondent Rumsfeld to detain anyone Respondent Bush has “reason to believe”:
- i. is or was a member of the organization known as al Qaeda;
 - ii. has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or
 - iii. has knowingly harbored one or more individuals described in subparagraphs (i) and (ii).

See Exhibit D to Oleskey Affidavit. Respondent Bush must make this determination in writing. The Detention Order was neither authorized nor directed by Congress, and is beyond the scope

of the Joint Resolution of September 18, 2001.

23. On information and belief, at the time of their detention, Mr. [REDACTED] and Mr. Nechla were (i) not members of the al Qaeda terrorist network; (ii) had not caused any harm to American personnel or property; and (iii) had no involvement in either the terrorist attacks of September 11, 2001, or any act of international terrorism attributed by the United States to al Qaeda or any terrorist group. They are not properly subject to the Detention Order issued by Respondent Bush. As they did not participate in any armed conflict involving the United States or its coalition allies, they are not properly subject to the Executive's authority as Commander in Chief and under the laws and usages of war.
24. Neither Mr. [REDACTED] nor Mr. Nechla was in or near Afghanistan, or any other theater of war, at the time of their unlawful detention on January 18, 2002.
25. Because of the circumstances surrounding their seizure and detention, it is not possible to state whether the Detained Petitioners promptly identified themselves by their correct names and nationality to the forces of the United States, or whether they requested that the United States provide them with access to their families and to legal counsel. On information and belief, Mr. [REDACTED] and Mr. Nechla were both kept blindfolded against their wills for lengthy periods while being taken involuntarily to Guantánamo Bay; have been or will be interrogated repeatedly there by agents of the United States Departments of Defense and Justice, though they have not been charged with any offense or been notified of any pending or contemplated charges; have made no appearance before either a military or civilian tribunal of any sort, or been provided counsel or the means to contact counsel; and have not been informed of their rights under the United States Constitution, the regulations of the United States Military, the Geneva Convention, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man, or customary international law. Indeed, press reports indicate Respondents have publicly taken the position that Guantánamo detainees should not be told of such rights. As a result, absent action by this Court, the Detained Petitioners are completely unable either to protect, or to vindicate their rights under domestic

and international law.

B. The Detention Order

26. The Detention Order seeks to vest Respondent Bush with unfettered discretion to identify the individuals that fall within its scope. It establishes no standards governing his discretion. The Detention Order contains no provision requiring notice to a person detained of the charges he may face. On the contrary, the Detention Order purports to authorize that detainees be held without charges. It contains no provision requiring that detainees receive notice of their rights under domestic and international law, and provides neither the right to counsel, nor the right to consular access. It provides no right to appear before a neutral tribunal to review the legality of a detainee's continued detention and does not provide for appeal to an Article III court. In fact, the Detention Order seeks expressly to bar review by any court. The Detention Order purports to authorize indefinite and unreviewable detention, based on nothing more than Respondent Bush's written determination that an individual is subject to its terms.
27. The Detention Order was promulgated in this judicial district, the decision to detain Petitioners was made by Respondents in this judicial district, the decision to detain the Petitioners at Guantánamo Bay was made in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents and in this judicial district.
28. On information and belief, Respondent Bush has never certified or determined, in writing or otherwise, that the Detained Petitioners are subject to this Detention Order.
29. The Detained Petitioners are not properly subject to the Detention Order.
30. In a related case, Respondents have contended that the Petitioners in that case are being detained not pursuant to the Detention Order but rather under the authority of Respondent Bush as Commander in Chief and under the laws and usages of war. *See Rasul v. Bush*, 215 F. Supp. 2d 55 (D.D.C. 2002). However, unlike the petitioner in *Rasul*, the Detained Petitioners in this matter were not arrested or detained by the United States in the course of an armed conflict.

C. Guantánamo Bay Naval Base

31. On or about January 11, 2002, the United States military began transporting prisoners captured

in Afghanistan to Camp X-Ray, at Guantánamo Bay. In April 2002, all prisoners, including the Detained Petitioners, were transferred to a more permanent prison facility at Camp Delta. Guantánamo Bay is a self-sufficient and essentially permanent city with approximately 7,000 military and civilian residents under the complete jurisdiction and control of the United States. Guantánamo Bay occupies nearly thirty-one square miles of land, an area larger than Manhattan, and nearly half the size of the District of Columbia. Offenses committed by both civilians and foreign nationals living at Guantánamo Bay are brought before federal courts on the mainland, where Respondents enjoy the full panoply of Constitutional rights. In *Rasul v. Bush*, decided on June 28, 2004, the U.S. Supreme Court held that the habeas statute §§ 2241–2243, App. 19, confers a right to judicial review of the legality of an indefinite Executive detention of aliens such as these Petitioners at Guantánamo Bay, a territory over which the United States exercises plenary and exclusive jurisdiction but not “ultimate sovereignty.” *Rasul v. Bush*, Nos. 03-334, 03-343, slip op. at 15–16 (June 28, 2004).

V. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF (DUE PROCESS – FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION)

32. Petitioners incorporate paragraphs 1–31 by reference as if fully set forth herein.
33. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the United States Constitution. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of the Detained Petitioners, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the direction of Respondent Bush. The Detention Order violates the Fifth Amendment.

SECOND CLAIM FOR RELIEF
(DUE PROCESS – FIFTH AMENDMENT
TO THE UNITED STATES CONSTITUTION)

34. Petitioners incorporate paragraphs 1 – 33 by reference as if fully set forth herein.
35. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the Detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution. The Detention Order, as applied to Petitioners, violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

36. Petitioners incorporate paragraphs 1 – 35 by reference as if fully set forth herein.
37. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the American Declaration on the Rights and Duties of Man. Respondent Bush has ordered the prolonged, indefinite, and arbitrary detention of the Detained Petitioners, without legal process, in violation of binding obligations of the United States under international law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of international law, since they act at the President's direction. On its face, the Detention Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW)

38. Petitioners incorporate paragraphs 1 – 37 by reference as if fully set forth herein.
39. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the right of the Detained Petitioners to be free from arbitrary, prolonged, and indefinite detention, in violation of customary international law, Arts. 9 and 14 of the International Covenant on Civil and Political Rights, and Arts. XXVIII, XXV, and XXVI of the

American Declaration on the Rights and Duties of Man. The Detention Order, as applied to the Detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(DUE PROCESS – FAILURE TO COMPLY
WITH U.S. MILITARY REGULATIONS AND
INTERNATIONAL HUMANITARIAN LAW)

40. Petitioners incorporate paragraphs 1 – 39 by reference as if fully set forth herein.
41. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons such as the Detained Petitioners seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, Articles 4 and 5 of Geneva Convention III, Geneva Convention IV, and customary international law.

SIXTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

42. Petitioners incorporate paragraphs 1 – 41 by reference as if fully set forth herein.
43. By the actions described above, Respondents, acting under color of law, have exceeded the constitutional authority of the Executive and have violated and continue to violate the War Powers Clause by ordering the prolonged and indefinite detention of the Detained Petitioners without Congressional authorization.

SEVENTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

44. Petitioners incorporate paragraphs 1 – 43 by reference as if fully set forth herein.
45. To the extent the Detention Order of November 13, 2001, seeks to shield determination of Respondent Bush against any challenge to the legality of the Petitioners' detention by way of habeas corpus, the Detention Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for relief as follows:

1. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of [REDACTED]
2. Grant Petitioner [REDACTED] Next Friend status, as Next Friend of Mohammed Nechla;
3. Order the Detained Petitioners released from Respondents' unlawful custody;
4. Order Respondents to allow counsel to meet and confer with the Detained Petitioners, in private and unmonitored attorney-client conversations;
5. Order Respondents to cease all interrogations of the Detained Petitioners, direct or indirect, while this litigation is pending;
6. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Administrative Procedures Act, 5 U.S.C. § 702;
8. Order and declare that the Detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
9. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
10. Order and declare that the Detained Petitioners are being held in violation of customary international law, the International Covenant on Civil and Political Rights, and the American Declaration on the Rights and Duties of Man;
11. Order and declare that the Detained Petitioners are being held in violation of the regulations of the United States Military, the Geneva Conventions, and international humanitarian law;
12. Order and declare that the Executive Order of November 13, 2001, violates the War Powers Clause;
13. Order and declare that the provision of the Executive Order that bars the Detained Petitioners from seeking relief in this Court is an unlawful Suspension of the Writ, in violation of Article I

of the United States Constitution;

14. To the extent Respondents contest any material factual allegations in this Petition, schedule an evidentiary hearing, at which Petitioners may adduce proof in support of their allegations; and
15. Grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the United States Constitution and international law.

Dated: New York, New York
July 8, 2004

Respectfully submitted,

WILMER CUTLER PICKERING
HALE AND DORR LLP

By: _____

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Counsel for Petitioners

* Mr. Herrling appears as local counsel for all attorneys.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 8th day of July, 2004.

Personal Representative Review of the Record of Proceedings

I acknowledge that on 20 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED] USAF
Name

20 Oct 2004
Date

[REDACTED]
Signature

ISN #XXX
Enclosure (5)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MUSTAFA AIT IDR, *et al.*

Petitioners,

v.

GEORGE W. BUSH,

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

Respondents.

Civil Action No. 04-CV-1166 (RJL)

DECLARATION OF JAMES R. CRISFIELD JR.

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

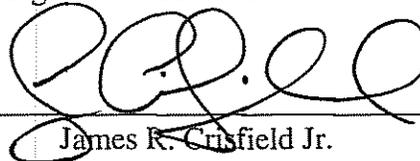
1. I am the Legal Advisor to the Combatant Status Review Tribunals. In that capacity I am the principal legal advisor to the Director, Combatant Status Review Tribunals, and provide advice to Tribunals on legal, evidentiary, procedural, and other matters. I also review the record of proceedings in each Tribunal for legal sufficiency in accordance with standards prescribed in the Combatant Status Review Tribunal establishment order and implementing directive.

2. I hereby certify that the documents attached hereto constitute a true and accurate copy of the portions of the record of proceedings before the Combatant Status Review Tribunal related to petitioner Mustafa Ait Idr that are suitable for public release. The portions of the record that are classified or considered law enforcement sensitive are not attached hereto. I have redacted information that would personally identify other detainees and the family members of detainees, as well as certain U.S. Government personnel in order to protect the personal security of those

individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 26 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0276
26 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

25 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #7 of 13 September 2004
(2) Record of Tribunal Proceedings

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

- a. The detainee was properly notified of the Tribunal process. Initially, he elected to participate in the Tribunal but later changed his mind and voluntarily elected not to participate. He was therefore absent during the first Tribunal session held on 6 October 2004. The Tribunal re-convened on 11 October to consider additional information. Since some of this information was unclassified, the detainee was again asked if he would like to participate in the Tribunal. The detainee elected to participate, was present for the unclassified session of the Tribunal on 11 October, and provided sworn testimony.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b). Note that some information in exhibits R-24 to R-26 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
- d. The detainee requested two witnesses. Once the detainee elected not to participate in the Tribunal the Tribunal President took no further action on his witness requests. In my opinion, the Tribunal President acted within her discretion in declining to act on the witness requests for a detainee who elected not to participate in the Tribunal.

The detainee also requested evidence in the form of documents he allegedly possessed when he was turned over to U.S. custody, including his passports and Bosnian court papers. His passports were located, but once the detainee elected not to participate in the Tribunal, the search for the other documents was terminated. In my opinion, the

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

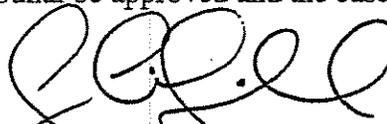
termination of the search was within the Tribunal President's discretion once the detainee elected not to participate in the Tribunal.

e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.

f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.



JAMES R. CRISFIELD JR.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #7

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

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

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

MEMBERS:

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

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

[REDACTED] Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

22 October 2004

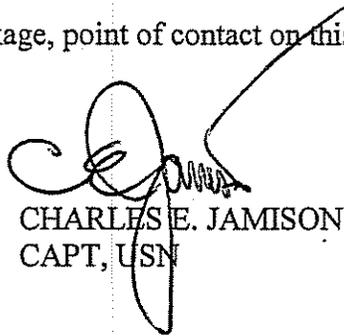
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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



CHARLES E. JAMISON
CAPT, USN

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #7 _____
ISN #: _____

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The Tribunal hearing commenced on 6 October 2004. The Recorder presented Exhibits R-1 through R-3 during the unclassified portion of this Tribunal session. Exhibit R-1, the Unclassified Summary of Evidence, states that the detainee: is associated with Al Qaida; is Algerian, but acquired Bosnian citizenship in the Bosnian military in 1995; is associated with the Armed Islamic Group (GIA), a recognized extremist organization with ties to Al Qaida; associated with a known Al Qaida operative while living in Bosnia; planned to travel to Afghanistan once his Al Qaida contact arrived there and had made the necessary arrangements; and was arrested by Bosnian authorities on 18 October 2001 because of his involvement with a plan to attack the U.S. Embassy located in Sarajevo. The Recorder presented no other unclassified evidence and called no witnesses.

The detainee initially elected to participate in the Tribunal process, but then changed his mind and affirmatively declined to participate. His election is indicated on the Detainee Election Form, which was admitted into evidence as Exhibit D-a. Because he elected not to participate, his request for two witnesses was not pursued and the Tribunal proceeding was held in the detainee's absence. In addition to Exhibit D-a, the Personal Representative introduced Exhibit D-b into evidence during the unclassified session. Exhibit D-b is a letter from the U.S. Ambassador to Bosnia and Herzegovina (BH) to the detainee's family explaining that the detainee had been taken into U.S. custody. The Personal Representative called no witnesses on behalf of the detainee.

During the classified session of the Tribunal on 6 October, the Recorder presented Exhibits R-4 through R-26 without comment. The Personal Representative introduced no additional classified evidence, but did comment on the classified evidence introduced by the Recorder. After the Tribunal read the classified exhibits and reconvened, the

Tribunal President asked the Recorder to produce additional evidence. Accordingly, the Tribunal recessed to give the Recorder the opportunity to retrieve the requested information.

On 11 October 2004, the Tribunal reconvened to allow the Recorder to present the evidence requested by the Tribunal. Because one of the documents the Recorder sought to introduce was unclassified (Exhibit R-38), the Personal Representative met with the detainee prior to the 11 October 2004 session to go over the document. After seeing Exhibit R-38, which is an affidavit from the detainee's wife, the detainee asked to participate in the proceeding. The Tribunal President granted the request, and the 11 October 2004 Tribunal session began as an open Tribunal session, with the detainee providing his sworn testimony after the Recorder introduced Exhibit R-38 into evidence. During his testimony, the detainee denied the allegations on the Unclassified Summary of Evidence and provided a detailed account of the events surrounding his arrest by the BH government. The Personal Representative also admitted Exhibit D-c, which was a revised Detainee Election Form indicating the detainee's desire to participate in the hearing. The Tribunal President also explained that given the detainee had previously declined to participate, the Tribunal would not revive the witness requests the detainee had made before his declination, which the detainee understood. The detainee's testimony is summarized in Enclosure (3) to the CSRT Decision Report.

During the classified session of the Tribunal on 11 October, the Recorder presented Exhibits R-27 through R-37, all of which are classified, for the Tribunal's consideration. The Recorder did not comment on the additional evidence; however, the Personal Representative did. The Tribunal then closed for deliberations.

Before the Tribunal had completed the Tribunal Decision Report, the Recorder informed the Tribunal that additional classified information had been found which was relevant to the determination of the detainee's status. Accordingly, the Tribunal reconvened on 20 October 2004 to consider the additional classified evidence. Because the Personal Representative had transferred to the headquarters office for the Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) in Washington, D.C., the additional classified session was convened via a secure teleconference. At the session, the Recorder introduced additional classified Exhibits R-39 through R-44, copies of which had previously been provided to the detainee's Personal Representative in Washington, D.C. Neither the Recorder nor the Personal Representative commented on the additional classified exhibits, and the Tribunal closed for deliberations. After carefully considering all of the testimony and evidence provided to the Tribunal, the Tribunal concluded that the detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-44, and D-a through D-c.
- b. Testimony of the following persons: None.
- c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

As noted above in paragraph 2, the detainee initially requested two witnesses, but then changed his mind and decided not to participate in the Tribunal process. Accordingly, his witness requests were not pursued. After the 6 October 2004 session of the Tribunal had concluded, the detainee asked to be permitted to testify at a subsequent open session of the Tribunal to be held on 11 October 2004. The Tribunal President granted the request, but noted it would be unreasonable at that point in time to reconsider the witness requests, which the detainee understood.

During the detainee's testimony on 11 October 2004, he mentioned that when he was turned over into U.S. custody, he and the others arrested with him had a number of documents with them, including their passports and some papers from the Bosnian court that had earlier heard their cases. The Personal Representative tried to obtain the documents, but could only find the detainee's Algerian and Bosnian passports. The Personal Representative did not search further for the documents once the detainee indicated that he would not participate in the Tribunal process. When specifically questioned about the documents during his testimony on 11 October 2004, the detainee indicated they were not necessary to prove his case.

5. Discussion of Unclassified Evidence

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

- a. The Recorder offered Exhibits R-1 through R-3 and R-38 into evidence during the unclassified sessions of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 provided no usable evidence. Accordingly, the Tribunal had to look to other evidence for support of the Unclassified Summary of Evidence.

b. Exhibit R-3 is an excerpt concerning the GIA from the Terrorist Organization Reference Guide. Exhibit R-38 is an affidavit from the detainee's wife filed with the U.S. District Court for the District of Columbia in conjunction with the detainee's Habeas Corpus petition. The Tribunal considered both of these exhibits in reaching its conclusions.

c. The Tribunal also considered the detainee's sworn testimony given during an open session of the Tribunal on 11 October 2004. In sum, the detainee denied the allegations on the Unclassified Summary of Evidence. Specifically, he denied: serving in the Bosnian military; any association with the GIA; being associated with a known Al Qaida operative; having planned to travel to Afghanistan; and any involvement with a plan to attack the U.S. Embassy in Sarajevo. He then answered questions posed by the Personal Representative and Tribunal members. He was, however, unwilling to answer several questions pertaining to two fellow detainees, asserting he was concerned that the information was being sought for interrogation purposes. He was otherwise cooperative. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3).

Before reaching its decision, the Tribunal also considered the classified evidence offered by the Recorder (Exhibits R-4 through R-37 and R-39 through R-44). A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report. After considering all of the evidence, including the detainee's sworn testimony, the Tribunal determined that this detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces.

6. Consultations with the CSRT Legal Advisor

The Tribunal consulted the CSRT Assistant Legal Advisor regarding allegations of mistreatment made by the detainee during his testimony on 11 October 2004 (see Enclosure (3) to the CSRT Decision Report). As per instructions, the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO was notified of the matters on 15 October 2004.

The Tribunal also consulted with the CSRT Assistant Legal Advisor to arrange legally sufficient procedures for conducting the 20 October 2004 classified Tribunal session via a secure conference call. The classified session involved the Tribunal, Recorder and Reporter in Guantanamo Bay, Cuba, and the Personal Representative in Washington, D.C.

7. Conclusions of the Tribunal

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

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings and actively participated in the hearing on 11 October 2004.
- c. The detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, U.S. Army
Tribunal President

Summarized Detainee Statement

Tribunal President: Mustafa, you may now present any evidence you have to the Tribunal or make a statement. You have the assistance of your Personal Representative in doing so. Do you want to present information to this Tribunal?

Detainee: First thing I would like to ask is, do you have time?

Tribunal President: Yes, we have time.

Detainee: Because it might take a while.

Tribunal President: No problem. Would you like to make your statement under oath?

Detainee: Not a problem.

The detainee was sworn using the Muslim oath. The detainee testified to the Tribunal in substance as follows:

Tribunal President: Mustafa, you may begin.

Detainee: First thing I want to talk about is my detention or imprisonment here. Do you want any comments related to my detention here?

Tribunal President: Are you being treated well?

Detainee: Not just my detention here, but from the moment I was captured up until this moment right now?

Tribunal President: Whatever you would like to present to us would be fine.

Detainee: Then I will start from the beginning. I don't remember the exact date, but a few days before I was captured or arrested, the American and the Bosnian Embassies closed their doors. They stated they closed their doors because of threats they received in Sarajevo. A few days after that, some individuals came to my house and knocked on my door. I opened the door and it was the police. The police were civilian police. I can recall two of them were wearing police uniforms and three were global police, international police from the United Nations. One was from Argentina, the second one was from Ghana, and the third one was from Jordan. They came to me and said they wanted to search my house. I asked them if they had a letter from the courts stating they could search my house. This is in Sarajevo, not Afghanistan. I just want you to know I am from Bosnia, not Afghanistan. So they gave me the paper. I read it and saw they had the right to search my house. A woman was with them also. They entered my house and I told them my wife and children were sleeping. It was late at night. So they said they would have the woman search the room where my wife was sleeping. The woman went

ISN # [REDACTED]
Enclosure (3)
Page 1 of 24

into the room and the men started searching my apartment. They searched in a polite manner and they did not leave anything untouched. They would look at my things and, if they found nothing, they would put it back like it was. They looked through my videotapes and books.

Detainee (continued): After they were all done, I asked them what they were looking for. They told me that they were just searching, but I felt they were searching for weapons. They searched everything. I had a computer and a laptop I was in the process of fixing that belonged to a company. I had a few drives, CD-ROMs, and floppy disks. They took some papers and the computers with them. I said to them that I would not be responsible for the computer if it had anything on it. I was responsible for it up until that point. I told them to ask their supervisors if they could bring an extra hard drive to copy everything from the computer; they could take the hard drive with them. So they said they were going to take it with them, but they promised they were not going to add or take anything else to or from the original hard drive. I told them if they put anything new on the hard drive, I would be able to see what it was and when it was added the next time I would log on to the computer. So the authorities took the computers and some CDs with them. They also had a video camera and they filmed the entire search. So they left.

Detainee (continued): One of them came back and told me to come with him to the police station for questioning. So I grabbed my car keys to go with the policeman. The policeman then said I did not have to drive, but I should ride with him and they would bring me back home. I went to the police station. My fingerprints were taken. This was the first time anything like this ever happened to me. I did not know how it worked. I asked the police why they were doing this and they told me for anyone who is suspected of committing a crime, fingerprints must be taken. We have to make sure you did not commit a previous crime. The police officer told me that this did not mean I was a criminal.

Detainee (continued): After taking my fingerprints, I was taken from the police station to the Ministry of Interior. I was going to be asked questions. It was about three a.m. I told them to ask me questions, but I was told that a lawyer had to be present. So we had to wait for the lawyer to get there. So in the morning a lawyer arrived. I asked him who he was. He told me he was a lawyer and my wife called him. Then I was asked questions. They were normal questions, like where I worked, my age, where I lived, and so forth. They asked me if I knew certain individuals. There were six from Bosnia and I was asked about five of these individuals. I was the sixth person. Two of the individuals I did not know and I had never seen them before. I told them I knew the other three. I stayed in the police station for the next twenty-four hours. I was then told I had to be taken to the higher court. In Bosnia, there is a regular court then there is the higher court. I was taken to an interrogator. I was again asked some questions. The same questions as before. The interrogator asked me an additional question. She asked me if I knew where the American Embassy was located. I told the interrogator that was a stupid question.

Detainee (continued): I don't think one person in Sarajevo does not know where the American Embassy is located. Anyone who lives or resides in Sarajevo knows the American Embassy is located in the center of the city. Everyone knows that. I told the interrogator even my youngest son would know where the American Embassy was located. The interrogator asked me if I knew a person named Abu Zubayda. I asked her where this person lived in Sarajevo. I thought maybe this was someone I knew under a different name. The interrogator said that this person was the second or third highest person in Al Qaida and no one knew where Zubayda lived. I thought Zubayda was a person who lived in Sarajevo. I did not know this person was involved with Al Qaida.

Detainee (continued): The questions were finished, but the interrogator told me I was going to have to remain in custody for anywhere from another twenty-four hours to one month. The lawyer asked why I was going to be held in custody and what evidence or proof of wrongdoing they had against me. The interrogator told my lawyer and I – and this is something you should emphasize or write in very large letters. She, the interrogator, stated this matter was much bigger than her and she could not be involved with it. I knew at that point this matter was some type of game. I knew this interrogator came to talk to me so I could be placed in prison. The interrogator could not do anything to tie or untie me.

Detainee (continued): I went to prison for the first time in my life. I would see prisons on TV but I had never been in a real one before. You can only imagine how a person feels when they go to prison for the first time. I was placed into a cell with persons who were in prison for drug offenses, theft, and embezzlement of millions of dollars. I entered the prison about four a.m. One of the prisoners pointed out an empty bed, so I slept on that bed. I woke up later that morning and read the newspaper. I saw a headline that was very strange. The headline said several members of the Islamic Armed Group were arrested along with members of Al Qaida. I realized they were talking about me and the five other people I had been asked about earlier. The article stated we were planning to think to bomb the American Embassy. There was a television there in the prison also. I would flip the channels and all the Bosnian channels were talking about it. After a few days, I was waiting for this month to end.

Detainee (continued): Sorry, I forgot something. When I was with the interrogator and she asked me about the location of the American Embassy, I knew it was related to why I was there. I was aware the embassy had been closed. I told the interrogator I wanted representatives from the American Embassy, the U.S. Army, and representatives from the British Embassy to come interrogate me. I wanted these people to ask me if I had ever threatened anyone via telephone or face to face; or if I was ever seen going into the American Embassy; or if there was any proof or evidence at my house that I was involved with this matter. The interrogator did not call or bring anyone else in. She stated the matter was bigger or higher than she was.

Detainee (continued): So I stayed in the jail for about a month. The longer I stayed, the more I thought this matter has some kind of twist to it. There were lawyers who were talking at press conferences saying this whole matter was untrue. Why? Because I was told I would remain in prison from twenty-four hours to a month. Long enough for them to look into the computers they took from my house or to trace any phone call that I made. But I will tell you something regarding the computers. If the hard drive had forty gigabytes - that was full, which is impossible, it would only take a week for a group of people to analyze the computer. They can obtain a list of all my phone calls from the post office. If I needed the listing for a person, I would go to the post office, give them the request, and I would get the listing within a day or two. The Bosnians said it was difficult for them to obtain all this information and it would take over a month. Every time something like this would happen, I suspected this was a game and this was not real. When the month was over, I was told I would have to stay an additional two months in jail, making it three months total. I was told the investigation was still ongoing and the search of the phone records and computer search had not been completed. During this period of time, my Bosnian citizenship was revoked. The reason cited was I was planning on attacking the American Embassy.

Detainee (continued): After that, the decisions came from the courts regarding the investigation of this matter. There was nothing found on my computer related to terrorism. I remember it was written down that they found pictures of waterfalls, trees, sunsets and sunrises on the computer, some software programs, and games I had downloaded for my son. As far as my cell phone and home phone, they wrote the same note; nothing was found relating to terrorism. If I remember correctly, they looked through my phone calls from the previous six months. The investigation was completed and they had to either release me from prison or extend my stay.

Detainee (continued): My wife and family had been in contact with the Algerian Embassy from the first day I was imprisoned. The Algerian Ambassador would speak with the Bosnian authorities. I was alleged to be a part of the Armed Islamic Group, but the Ambassador stated that I did not have any relationship with this armed group because I was registered with the Algerian Embassy from 1993 until the year 2001, when I was brought to Cuba. There was one day left for the police to hand me over to the Americans. I did not know I was going to be handed over, but I felt it. There was talk about it in the news and the newspapers. There were secret meetings between the communists in Bosnia and the American military. The Bosnian government at that time was communist. The President was communist. I knew these meetings were about me, I felt it. On the last day before I was handed over, my wife spoke with the Ambassador once more. My wife inquired if I was going to be turned over to the Americans. The Ambassador told my wife if that happened, the Algerian government would sue the Bosnian Government in the International Court because it was verified Mustafa did not have any problems. It was the Bosnian Government's right to interrogate me, and if there is proof of wrongdoing, then imprison me. Also, if the Bosnian government no longer wanted me in their country, I would be welcome to return to Algeria. But for the Bosnian government to turn me over to another country for no real reason, this would not be accepted.

Detainee (continued): Thursday, January 17th, during the night, I had to be released because the time had run out. The law from the court said anyone that was found innocent had to be released from prison before four p.m., because the courts are open until three p.m. So then they take you back to the prison, you get the paper saying you are innocent, and then you leave. The Bosnian news on television said I was found innocent and I was being released. At that moment, the police officers came to me, gave me the paper saying I was innocent, and released me to leave the prison to return to my house. I changed the TV channel, and I saw there was a large number of people outside the prison. The crowd had found out I was being turned over to the U.S. military. There was a lawyer for one of the other individuals – maybe it was [REDACTED] lawyer. The lawyer stated he had an official announcement. The lawyer stated we [the Algerian Six] would be turned over to the Americans. We were going to be moved from Sarajevo to most likely Germany; then from Germany to Cuba. So we all left that prison and we were turned over to the Americans. There seemed to be a big problem outside the prison. The people wanted to grab us from the police. The police were hitting people and the people were hitting the police. I heard the police talking on the radio and estimated there were 5,000 people outside the prison. From what I saw, there were women, old and young people, men, and children. All kinds of people. There was a fight between these people and the police because they were trying to grab us from the police because they heard we were innocent and the Bosnians were still turning us over. The fighting went on from midnight to about six a.m. The people were flipping police cars over and the roads had been closed.

Detainee (continued): That part was over. Now I would like to talk about the three days when we were being moved. During those three days we were being transferred here, animals would never have been treated the way we were. In Bosnia, the temperature was -20 degrees and there was ice and snow. It was very cold. They took off all my clothes and they gave me very thin clothes – like that tablecloth [detainee points to the white sheet covering the Tribunal table]. They placed me in a room that was very cold. As they moved me from country to country, my ears, mouth and eyes were covered. I could not even talk or breath. A mask with a metal piece was place over my mouth and nose. Why am I saying this? When I sat with the Personal Representative, I was given a letter from the American Ambassador in Bosnia that lied and said I was moved in a humane manner. When I got to Cuba, the first four or five months I could not feel my left leg. From my thigh to my back, I could not feel anything at all. It was like when you administer anesthesia to someone. Anyway, we were moved here and what happened had happened.

Detainee (continued): I am not going to get into the problems with the bad treatment from the guards in Cuba. For example, a twenty-year-old guard came into my room and was swearing towards my mother and father for no reason whatsoever. I was not even talking to this guard. I was just sitting there. I am not going to talk about these things. Outside everyone knows this is going on from the news.

Detainee (continued): I was taken to the interrogations. I am now going to speak about the interrogations. I remember everything about the interrogations. I do not know the interrogator's names, but I remember every single detail. I remember how the interrogator was sitting, who was sitting next to him; I have a very good memory. I am going to tell you everything the interrogator told me. At Camp X-ray, I told the interrogators I did not want to talk to them and I was not going to tell them anything. The interrogator asked why I did not want to speak. I answered because I did not know why I was brought to Cuba. The interrogator asked if I knew what the accusations were against me from Bosnia. I told the interrogator I knew what the accusations were. He asked me what they were. I told the interrogator that the accusation was that I was a member of Al Qaida. The interrogator wrote it down and then drew an "X" over it. The interrogator told me to forget about this matter. Then I told the interrogator another accusation was I was a member of the Algerian Armed Group. The interrogator did the same as before with the "X" on what he had written down. The third accusation I stated was that I intended to think to attack the U.S. Embassy in Sarajevo. The interrogator told me to forget about this. The interrogator said something else but I cannot remember it right now. I told the interrogator that was what I knew.

Detainee (continued): The interrogator told me I was there to give up information about Bosnia, and information about the Arabs living in Bosnia, and the rescue organizations that are present in Bosnia. I said to the interrogator that he would not hear one word from me starting on that day. I also said to the interrogator, the story on the outside was I was captured because of terrorism, and now here you are telling me you want me to give up information about rescue organizations and Arabs and how the Arabs are living? I said if there are accusations against me, I will talk with you about those accusations. But in spite of that, I did speak with the interrogators about these things.

Detainee (continued): Another interrogator told me the Bosnia and Herzegovina Government wanted to get involved with the war on terrorism. This communist government received very large monetary assistance from America. They took this money and gave six people to the Americans. They took the money and then they tricked us by handing over people who did not have or know anything. I asked the interrogator if he knew this, then why was I being held in prison in Cuba? The interrogator told me this matter was out of his hands and it was above him. Many of the interrogators told me many different things. If I had a piece of paper earlier I would have written it all down. I don't remember everything right at this moment. Another interrogator told me I was bought with very large sums of money and I did not have any information, but I could not be released. I asked the interrogator why, and if there were any accusations or evidence against me. The interrogator said to me that they would find something, meaning I could not be released from Cuba without them finding some accusation against me. I could not have been held in Cuba in prison for three years, then all of a sudden be found innocent and released. The interrogator stated there was a big problem and they could not release me and say I was innocent because the Bosnian Embassy was told there was classified

evidence against me. So if I were released, the Bosnian government would ask for the classified evidence.

Detainee (continued): If I was released after three years, although the American government said I was a criminal, it is impossible a court would give a sentence of three years to a person who wanted to bomb an embassy. It is impossible. The least amount would have been fifteen to twenty years because it is an act of terrorism. So the interrogator said now there was a problem. We could not let you go home, but we cannot keep you here. Right now I was a problem to them and they did not know what to do with me. These are the words of the interrogator, not the words of Mustafa. The interrogators informed me the Bosnian government had reinstated my Bosnian citizenship because they knew I was wronged and my citizenship was taken from me illegally.

Detainee (continued): The Bosnian government had changed and a new government was in place. The Americans did not want to return me to Bosnia. Why? Because the Americans claimed to have evidence against me. I can't be returned and found innocent. I could not be returned to Algeria because Algeria had created a problem with the Bosnian Government. The Algerian Government questioned the Bosnian Government as to why I was arrested without any reason. So now I am sitting here in Cuba and I do not know why. I do not know what is happening outside; I do not know. But what I do know is that this is a game. These were the words of the interrogators. Even in movies, these things do not happen. The accusations are the same thing. They are very strange. I can give you more accusations in addition to the ones in front of you, if you would like to write them down. The interrogators gave me more accusations than what you have given me.

Detainee (continued): One of the accusations implied I knew where Bin Laden was hiding while I am here in prison. Another accusation implied I knew where Bin Laden kept his nuclear weapons. Another accusation implied I was Usama Bin Laden's right hand man. Many accusations like this, many things. Another accusation was Bin Laden contacted me to be a personal bodyguard. You can just add these accusations on the ones you already have in front of you. So that way, things will be clear. The interrogators told me with their own tongues that they did not have anything on me and I had done nothing wrong. So this is all I will say about the interrogations, I am done with that. I will now talk about this Tribunal.

Detainee (continued): Regarding my treatment here in prison, I am a person that lived a very good life. I never had any problems with people whatsoever. Within my family itself, I had no problems. I never had any problems with my neighbors. The team I trained with consisted of Muslims, Catholics and Orthodox; many different people. My neighbors were the same way. I made very good wages from my jobs. I never had any problems with money, people, anything. My life has changed completely. It has turned 360 degrees to this, where I am now. There are times when a soldier, who maybe never even went to school and barely knew how to hold a weapon, comes to you and swears at you; he says things to you that you have never ever heard of in your life. As an example,

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a soldier broke my finger. [Detainee holds up his left hand. The left pinky finger is distanced about 1½ inches from the four remaining fingers. The detainee is unable to bring the left pinky finger in alignment with his other fingers.] Can you see? I cannot bring this finger close to my other fingers. I cannot close this gap. On the middle finger [detainee points to the center knuckle on the middle finger of his right hand], my knuckle has been broken. You probably cannot see that. But my finger [detainee holds up his left hand, the left pinky finger] you can see that clearly.

Tribunal President: Let me ask you a question? Are you saying a soldier in Guantanamo Bay, Cuba, broke your fingers?

Detainee: Yes. Soldiers took me and placed me on the ground in the rocks outside. My hands and my feet were bound. The soldiers put my face on the ground. You can see maybe my eye - a small little hole near my eyes [detainee points to the outside corner on his right eye]. One soldier put my head on the ground, and then another soldier came and put his knee on my face. The soldier hit me on the other side of my face that was not touching the ground [detainee points to the left side of his face]. If my head was turned a little bit more [detainee turns his head to the right attempting to show the Tribunal the position of his head at the time of the alleged incident] the rocks would have gone into my eye. Next to my eye [detainee points to his right] there is a little hole. There are a lot of things regarding the soldiers, but I won't talk about all of them.

Detainee (continued): Regarding this Tribunal, I am speaking to you, but inside I don't really believe this Tribunal. Not you as individuals. Like the interrogator said, after holding a person in prison for three years, this Tribunal cannot just say I am innocent and let me go home. That is what I feel inside. So like the interrogator said to me, you have to find anything to charge me with, being or not being an enemy combatant. But no problem, I am still going to talk to you. If you want me to talk with you regarding the accusations, I will talk about them. Or if you have questions, you can ask me. To tell you the truth, I forgot many things I wanted to talk about because I did not write them down.

Tribunal President: You were given the opportunity to appear before the Tribunal when it was held earlier?

Detainee: Yes.

Tribunal President: But you chose not to participate in the Tribunal? Is that correct?

Detainee: You said I decided not to attend? Yes.

Tribunal President: This time you have decided to talk because you had an opportunity to take a look at this document [Exhibit R-38]?

Detainee: Yes.

Tribunal President: You can present any information that you would like to and the Tribunal will take the opportunity to ask any questions. If you are ready to conclude your statement, then we can go on.

Detainee: Regarding the accusations, do I just talk about the accusations? Or will you read them one by one to me and I talk about them?

Tribunal President: Are you talking about the accusations read to you earlier?

Detainee: Yes.

Tribunal President: You can answer them if you'd like. Do you remember what they were?

Detainee: May I ask the Translator a question?

Tribunal President: The Tribunal would have to know what you asked her.

Detainee: No problem.

Tribunal President: Okay.

Detainee: I have kidney stones and I have to go to the bathroom every few moments. Before I came in I asked the soldier and the soldier said no, he would not take me to the bathroom. I was in the room over there.

Tribunal President: We can take a recess to allow you to go to the restroom.

Detainee: Please forgive me. I want to talk about the accusations, but I just have go to the restroom. Thank you.

Tribunal President: I understand.

Recorder: All Rise.

The Tribunal took a brief recess.

Tribunal President: Just before the recess we were about to review the allegations. Translator, do you have the translated version [of the Unclassified Summary of Evidence]?

Translator: Yes, I do.

Tribunal President: Is it you plan to go through each allegation?

Detainee: Yes.

Translator: The detainee asked me to read the allegations in English because he knows them and he understands them.

Tribunal President: I need to make sure you understand what is being read to you, so I would like for the allegations to be translated to you.

Detainee: Okay.

Tribunal President: Recorder, read each one aloud and then allow the detainee to respond to each allegation.

Recorder: [Item 3.a.1.] The detainee is Algerian, but acquired Bosnian citizenship by serving in the Bosnian military in 1995.

Detainee: This is the first accusation?

Recorder: Yes.

Detainee: As I said to my Personal Representative earlier, I have some papers that were with me when I was transferred over here. They could not find those papers. The papers proved I was not living in Bosnia in 1995. I acquired the citizenship while living in Croatia in February 1995. I entered Bosnia, if I remember correctly, in July or August, about two or three months before the war ended. I am going to give you proof I was living in Croatia. In the year 1995, Croatia divided into two parts; Jupania and Dalmatia. I was the [martial arts] champ in Dalmatia in 1995. I was present there, and I took part in the championship competition. It was impossible for me to be living in Bosnia and participating in a championship in Croatia. That is the first thing. The certificate that says I won the championship is probably still in my house. It even has the date on it. This means I was living in Croatia, not Bosnia. Another paper that proves I was living in Croatia was a paper requesting I vote while I was living in Croatia and Algeria. The elections in Algeria were in 1995. The Algerian Embassy came to Zagreb, which is the capital of Croatia. The Algerians living in Croatia vote. That is the proof I was living there because I voted. The paper I used to vote, the date is written on it. The third thing, the rescue organization I was working with in Split. I would like to verify when the last time I received a paycheck from them and the date I stopped working for them. The fourth thing, the team I used to train with, when I stopped training with them. The fifth, my Algerian passport, the old one - it has the date of when I entered Bosnia. You can also make sure of this. There is a sixth thing. Where I acquired my Bosnian passport. I got it from the Bosnian Embassy in Zagreb. This is proof I was living in Croatia. You can also verify this through the police in Split where I used to live. A paper from the police verifying your residence has the dates and address of where I used to live. You can verify from the landlord when I stopped paying him and when I moved from that

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address. Many things prove I lived in Croatia when I obtained my Bosnian citizenship. I got the citizenship in February 1995 or the end of 1994. In the end of 1994, I went to Bosnia to sign some paperwork that had to be signed. I am not sure if it was the end of 1994 or January 1995, but it was around that time. The proof of that was I had an UNHCR [United Nations High Commission on Refugees] identification card. It was something regarding refugees. I had this identification because I was working with a rescue organization.

Tribunal Member: Was it the United Nations Human Council on Refugees?

Detainee: Yes, they are the blue....

Tribunal Member: Yes.

Detainee: I had that identification card. I traveled from Split to Bosnia in a plane with the United Nations. I traveled for a day or two. Or maybe a few days, long enough for me to sign the paperwork and return. I returned on the same plane to Split. You can verify this with the United Nations. Maybe they will have a list of the names of all the people who were on that plane on the way there and back. You can also verify the number of days between me going there and coming back was a few days. You can check with other companies or employees that worked in the building that I worked in. They can verify I was there. These things all proved I acquired my citizenship while I was living in Croatia. I did not even go to Bosnia at all. In the building where I worked, there was an office for the Bosnian Government. That is where I turned in my paperwork. Anyone who wanted Bosnian citizenship had to go and turn in paperwork with some money. It was very normal. It was about \$900.00 dollars. This was not strange, it was very normal. The American ambassador has Bosnian citizenship. Ask the Ambassador why he got the Bosnian citizenship. Why do you ask me why I got the citizenship and you don't ask the Ambassador? An American basketball player who plays in Bosnia has Bosnian citizenship. My wife is Bosnian and my kids are Bosnian. I was a champ in Bosnia for several years and I trained a Bosnian team. Representatives from Bosnia and Herzegovina were with me on the team. You ask me how I got the citizenship? It was a normal thing. I had more of a right to get it than the American ambassador. So this all proves how I acquired the citizenship and I was not in Bosnia in the first place.

Tribunal President: Can we move on to the second point?

Recorder: The Detainee is associated with the Armed Islamic Group (GIA).

Detainee: I don't want to ask you about the evidence because you said the evidence was classified. If you have any evidence, you can tell me. It is no problem. I am going to tell you and if you have any evidence, you can tell that to me.

Tribunal President: Are you responding to that with either a yes or no?

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Detainee: Of course, no. What proves that if I was with the Algerian Armed Group, I would not have been able to go to the Algerian Embassy? They would not have seen or accepted me there. The second thing is, when my Algerian passport had expired, I had to go to the embassy and renew it.

Tribunal President: Let's clarify. [Item 3.a.2.] The allegation reads the Detainee is associated with the Armed Islamic Group, not the Algerian Group.

Detainee: Maybe you are not aware of something, but I am just going clarify this. What they mean by the Islamic Army is that it is in Algeria. In Algeria it is called the GIA, as well. It stands for the Armed Algerian Group. Where is another armed group besides Algeria? I am sure they mean the Algerian Army because it is called the GIA. In French it is called the GIA, too. Some say the "A" stands for army. Some says the "A" stands for Algeria. If it is not that, then I don't know what it is, but I will respond to that accusation as the armed group. If this is how you are saying or what you meant by it, then I do not know it and I am not a part of it. I know nothing of it. But if this is the Armed Algerian Group as I think it is, then I say to you that this is impossible, as I was registered with the Algerian Embassy. I had to hand in registration papers, which they take and send to the Interior Ministry in Algeria. The Interior Ministry sends those papers to the area where I lived in Algeria to verify all the information. So if I had any relationship with an armed group or drugs or weapons or anything, the response to the Algerian Embassy would be not to register me. My new Algerian passport is from the embassy from 1993 until 2001, when I was brought here to the prison. My children are registered in the embassy and my wife is registered in the embassy. Every so often, there is a meeting with the ambassador, meaning if I had any relation with an armed group, I would not be able to meet with the Algerian ambassador. I would have been sent back to Algeria. Also, evidence I do not have a relationship with this armed group is when I was captured in Bosnia, the Algerian Government and Algerian Embassy stepped in. Here in prison, all the Arab representatives came here from all countries, not just Arabic countries. The Algerians are the only ones that did not come. Why? Because I was captured from Bosnia and brought to Cuba for no reason. I can tell you that I am not a member of this group. You can contact Algeria and ask them. The interrogator told me that information was gathered from Algeria that I am not a member of the armed group. That is what I have regarding this. If you have any evidence you can say, I will answer.

Tribunal President" Let's respond to the next one, 3-a-3.

Recorder: [Item 3.a.3.] GIA is a recognized extremist organization with ties to Al Qaida.

Detainee: How can I respond to this? It is not a question and it is not an accusation.

Tribunal President: You are right. Let's move on to the next one.

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Recorder: [Item 3.a.4.] While living in Bosnia, the Detainee associated with a known Al Qaida operative.

Detainee: Give me his name.

Tribunal President: I do not know.

Detainee: How can I respond to this?

Tribunal President: Did you know of anybody that was a member of Al Qaida?

Detainee: No, no.

Tribunal President: I'm sorry, what was your response?

Detainee: No.

Tribunal President: No?

Detainee: No. This is something the interrogators told me a long while ago. I asked the interrogators to tell me who this person was. Then I could tell you if I might have known this person, but not if the person is a terrorist. Maybe I knew this person as a friend. Maybe it was a person that worked with me. Maybe it was a person that was on my team. But I do not know if this person is Bosnian, Indian or whatever. If you tell me the name, then I can respond and defend myself against this accusation.

Tribunal President: We are asking you the questions and we need you to respond to what is on the unclassified summary. If you say you did not know or you did know anyone that was apart of Al Qaida, that is the information we need to know.

Detainee: I have only heard of Al Qaida after the attacks in the United States. Before that, I had never heard of Al Qaida. Even after I heard of Al Qaida, I felt that Al Qaida was the Taliban and the Taliban was Al Qaida. Then after watching the news, I knew Al Qaida was associated with Bin Laden and the Taliban was associated with the Afghans.

Recorder: [Item 3.a.5.] At the time of his capture, the detainee had planned to travel to Afghanistan once his Al Qaida contact arrived there and had made the necessary arrangements.

Detainee: I can respond to this accusation with a question. May I?

Tribunal President: Please do.

Detainee: Did they find any stamps or visas on my passport to any countries close to Afghanistan? Did they catch me with a suitcase on the plane? Was I seen going into an

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embassy for one of the countries close to Afghanistan? Was I seen sitting and talking with anyone known to be apart of Al Qaida? How can they know that I planned? I do not know how they can know this. Do you have anything that is clear or proves clearly that I planned these things? How do you say I planned these things? The answer that I am able to give you is just to tell you that I did not plan these things. But I do not have any papers or anything to prove that. I already told you earlier how I was captured from my house. I was not running or trying to escape. I was inside my house. The police came in and arrested me.

Recorder: [Item 3.b.1.] The detainee was arrested by Bosnian authorities on 18 October 2001.

Detainee: Yes, but this phrase "arrested by," I just want to make that very clear I was not arrested. I was in my house and they told me to come with them so they could asked me some questions. When you say arrested, it means I was fleeing, they came in, and I was fighting.

Recorder: [Item 3.b.2.] The detainee was arrested because of his involvement with a plan to attack the U.S. Embassy located in Sarajevo.

Detainee: The same answer as before. The only thing I can tell you is I did not plan or even think of that. Did you find any explosives with me? Any weapons? Did you find me in front of the embassy? Did you find me in contact with the Americans? Did I threaten anyone? I am prepared now to tell you, if you have anything or any evidence, even if it is just very little, that proves I went to the embassy and looked like that [Detainee made a gesture with his head and neck as if he were looking into a building or a window] at the embassy, then I am ready to be punished. I can just tell you that I did not plan anything. Point by point, when we get to the point that I am associated with Al Qaida, but we already did that one.

Recorder: It was statement that preceded the first point.

Detainee: If it is the same point, but I do not want to repeat myself. These accusations, my answer to all of them is I did not do these things. But I do not have anything to prove this. The only thing is the citizenship. I can tell you where I was and I had the papers to prove so. But to tell me I planned to bomb, I can only tell you that I did not plan.

Tribunal President: Mustafa, does that conclude your statement?

Detainee: This is it, but I was hoping you had evidence that you can give me. If I was in your place - and I apologize in advance for these words - but if a supervisor came to me and showed me accusations like these, I would take these accusations and I would hit him in the face with them. Sorry about that. [Everyone in the Tribunal room laughs.]

Tribunal President: We had to laugh, but it is okay.

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Detainee: Why? Because these are accusations that I can't even answer. I am not able to answer them. You tell me I am from Al Qaida, but I am not an Al Qaida. I don't have any proof to give you except to ask you to catch Bin Laden and ask him if I am a part of Al Qaida. To tell me that I thought, I'll just tell you that I did not. I don't have proof regarding this. What should be done is you should give me evidence regarding these accusations because I am not able to give you any evidence. I can just tell you no, and that is it.

Tribunal President: Mustafa, we allowed you the opportunity to tell the Tribunal your side of the story so we can consider your story, plus the unclassified evidence from your family. We will consider all of the information you have given us, and this document [Exhibit R-38] in our decision.

Detainee: The evidence of proving I was living in Croatia, I do not know how I can get that to you. My wife can send papers or I can talk to the Ambassador about this. Maybe he can send papers that I was living in Croatia.

Tribunal President: You have the opportunity to get that information. I do not know how or what the procedure is, but you really should take the opportunity to get that information.

Detainee: How when I am in GTMO?

Tribunal President: For the purpose of this Tribunal, we have to look at the information that is presented to us at this time. In the beginning [i.e., when the detainee met with his Personal Representative], when you said you did not want to participate and you did not want to have any witnesses or get any documents – the Tribunal cannot consider those things now. You will have the opportunity at another time and I will explain the Administrative Review Board process to you and you can use those documents then. Mustafa, we will consider everything you have told us today, and also about the documents that you have. The Tribunal will consider that information to make a decision.

Detainee: Also, excuse me, but my Personal Representative told me there were some papers that could not be found. I am a little surprised that these papers could not be found, because when I came here, I had a bag that hung around my body and my passports, both Algerian and Bosnian; my embassy registration papers that proved I was registered there; my voting paper was in there; the paper from the courts that said I was innocent and allowed me to get out of the Bosnian prison; and the court's report about what was found on my computer and telephones; and my clothes. My Personal Representative told me that these items could not be found.

Tribunal President: Personal Representative, did someone take the time to look for those documents?

Personal Representative: Yes, Ma'am. I personally went over to detainee property and asked for those documents. I was told the only items that were there were the detainee's Bosnian and Algerian passports and a sheet of paper with pictures on it. None of the other documents were available.

Detainee: This is strange because everything was in the same bag. So everything should be lost. It impossible that they only had a few of the things that were in the bag. Maybe those certain papers were hidden.

Tribunal President: Did you ask your Personal Representative to get those documents for you?

Detainee: Yes, I did ask him.

Tribunal President: Including the Bosnian and Algerian passports?

Detainee: All of it. It was in a bag that I placed right here [detainee points to his torso]. The bag had both my passports and even my driver's license in it.

Tribunal President: My question is, did you ask the Personal Representative to get those documents for you to present to the Tribunal?

Detainee: I remember I told him about my papers that proved I was living in Croatia and that I had voted. The Personal Representative went there to look for them, but he could not find them.

Tribunal President: I understand, but unless you asked the Personal Representative to get those documents for you to present to the Tribunal, then he would not have done that without your permission.

Detainee: Of course I asked him. I am sure I asked him.

Tribunal President: Personal Representative, did Mustafa ask you to get those documents and present them to the Tribunal?

Personal Representative: Yes, Ma'am. In our earlier meeting, the detainee did ask me to get those documents. I told the detainee part of the documents he wanted were not here, and I had no idea where they were. In a follow-on meeting when the detainee decided not to participate, the detainee gave me a statement he wanted me to give to the Tribunal. The Bosnian passport and the Algerian passport are here and I can retrieve those items in less than five minutes.

Detainee: It's no problem.

Tribunal President: Do you want us to get those documents to be presented?

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Detainee: I don't think those items have anything to offer. The Algerian passport is a new one and has nothing in it. The Bosnian passport has nothing to do with this matter, but if you want it brought in, then the Representative can bring it.

Tribunal President: I only want the information presented if it is going to help us in our determination, or if it is going to answer any of the questions in the evidence.

Detainee: No, they will not answer any of those questions. The Algerian passport has nothing in it and the Bosnian passport is new.

Tribunal President: Does that conclude your statement?

Detainee: I do not have anything else about this. All I have else to say is if there is anything else about me that you may want to know. How I went to Croatia? How I started working? Anything like that. That I can talk to you about if you want me to.

▫ Tribunal President: The Tribunal will probably ask you some questions. But before that, Personal Representative, do you have any questions for the Detainee?

Personal Representative: No, Ma'am.

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

Recorder: No, Ma'am.

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

Tribunal Member: Yes, Ma'am. One of the allegations cites you served in the Bosnian military. Have you ever been in any military?

Detainee: I never in my life wore any uniform like that you have on [detainee points to the military uniforms worn by the Tribunal Members]. To answer the question, I left Algeria and I had not even registered for the Algerian Army. Sometimes when I was living in Croatia, if I wanted to go on a holiday or vacation for one month to Algeria, I could not go. I knew if I went there I would be forced to serve in the Algerian Army. In 1998, I had a paper from the Algerian Government that was issued to men who reached a certain age excusing me from serving in the Algerian Army. So the Algerian Embassy sent me a paper.

Detainee: I presented to the embassy information or papers that said I was married and had children. In exchange, I was given a certificate excusing me from military service. Even this certificate was in that bag with me.

Tribunal Member: Does your Bosnian passport have stamps to prove your whereabouts in 1995, or is it newer than that?

Detainee: The Bosnian passport is renewed every two years. So even if there were stamps inside, it would have been changed by now. You can verify from the Bosnian Government where my first passport was issued. It was issued from the Bosnian Embassy in Zagreb, the capital of Croatia.

Tribunal Member: Who were you working for at the time you were taken into custody?

Detainee: Taibah, an organization. Would you like me to explain what Taibah is?

Tribunal Member: Can I get the full name of the company first?

Detainee: It is Taibah International.

Tribunal Member: Can you explain what you did for Taibah?

Detainee: This organization is a Saudi Arabian charitable organization. It is also registered as American, so it is Saudi-American. It is registered in Washington and registered in Saudi Arabia. It works in teaching. They teach mainly the English language and computers. But all of its work is on the teaching side. In some instances, during Eid, which in a Muslim holiday, sometimes they would slay sheep and cattle and distribute them to the poor, but very, very rarely. But the organization's main function was computers and teaching the English language. My job was to fix the computer software or hardware. Sometimes there would be a course and the professor would teach computer skills. My job would be to examine all the computers before the students come in to make sure they were working properly before being used. Occasionally, if there was something wrong with the computer or the hardware, I would fix it. That is what my job was.

Tribunal Member: How long had you been working for Taibah?

Detainee: I am not sure of the date I started. I am afraid to make a mistake in the date, but I will tell you what I think it was. I started working for Taibah after I stopped working for the organization of Qatar. It was the end of 1996 or the beginning of 1997, I think, until the day I came here. But the actual date itself, I am not sure. It was about four years.

Tribunal Member: What was the organization you worked for prior to Taibah?

Detainee: In 1993, I was working in rescue, the International Islamic Rescue Organization from Saudi Arabia. I worked there from 1993, 1994 and up until the end of 1995. Then, in Bosnia, I worked for the organization Qatar. From 1993 through 1995, I

was working in Split in Croatia. Then in the end of 1995, 1996 and 1997, in the Qatar organization. Then in Taibah. I had other jobs too, besides this one.

Tribunal Member: I just want to make sure I understand the different times. For the International Islamic Organization from 1993 to 1995?

Detainee: In 1993, I am sure of that because I left straight from Algeria to come. I was sent a paper to come to Split and work for the International Islamic Rescue Organization. All my work is related to computers.

Tribunal Member: Is the International Islamic Rescue Organization also known as the International Islamic Relief Organization? Are they the same thing?

Detainee: I-G-A-S-A. The last two letters stand for Saudi Arabia, I know that. I do not know the rest.

Tribunal Member: So that was from 1993 to 1995?

Detainee: Yes.

Tribunal Member: What did you do for IGASA?

Detainee: The same things. I worked on computers.

Tribunal Member: Computers, okay.

Detainee: They had orphans, and I would enter and retrieve data on the orphans. If the President or the boss would write a report, I would enter that also. I did anything dealing with the computers.

Tribunal Member: Was that also in Split?

Detainee: Yes, that was in Split.

Tribunal Member: Then from 1995, but also in 1996 and 1997, you worked for Qatar?

Detainee: Yes.

Tribunal Member: What did you do for Qatar?

Detainee: I again worked with the computers, and at that time I was also a secretary to the president. During this period of time, I was working in two cities. The first period was in Zenitza. But then the president or manager sent me to another city to work in. I worked there for a while, and I became the manager in that company.

Tribunal Member: Where was that?

Detainee: Qatar.

Tribunal Member: I am sorry, I meant the name of the city.

Detainee: Tuzla.

Tribunal Member: Tuzla.

Detainee: I was the manager only in Tuzla, nowhere else. The general manager was in Zenitza. So I worked there for maybe a year. Then they closed, and I went back to Sarajevo. One of the reasons I moved to the capital, to Sarajevo, was because I was training and teaching karate.

Tribunal Member: You worked for Qatar for only one year?

Detainee: From the end of 1995, all of 1996 and the beginning of 1997. It all amounted to maybe two years.

Tribunal Member: Okay. What did Qatar do?

Detainee: The main line of work was dealing with orphans. But they also distributed food to the poor sometimes.

Tribunal Member: What did IGASA do?

Detainee: The same thing. Pretty much all of the relief organizations in Bosnia, the Islamic and non-Islamic ones. They all work in this area, distributing food and clothes to the poor. Giving the orphans money, about \$25.00 every month. All the relief organizations in Bosnia Herzegovina did the same thing. Maybe the Taibah organization I worked for was the only one that taught also. Maybe there were some other organizations that do that, but I do not know what they were.

Tribunal Member: You mentioned that you know some of the other Algerian people who were taken into custody at the same time? Who were the ones that you knew?

Detainee: Now, I would like to ask the Tribunal a question. Is this an interrogation?

Tribunal Member: No. This is for the Tribunal.

Detainee: [REDACTED], [REDACTED] and [REDACTED].

Tribunal Member: Are those three different people?

Detainee: Yes. [REDACTED] number is [REDACTED]; [REDACTED] is [REDACTED] and [REDACTED] is [REDACTED], maybe.

Tribunal Member: How did you know these people? What was your relationship to them?

Detainee: I do not want to answer this question because I feel it is related to the interrogations. I am sorry. This question about these three individuals, I have talked about them so much you can fill a CD. I can only tell you now, if one of those three are a terrorist, then I am a terrorist. If one of them is from Al Qaida, then I am from Al Qaida. If you imprison one of them for a terrorist act, then I am prepared to go to prison with him. I say these things because I know them as well as I know my wife and kids. That is all I can say about them

Tribunal Member: I have no further questions.

Detainee: Thank you.

Tribunal President: Can you tell me how long you have known the other Algerians you just named?

Detainee: Same as before, I cannot answer that question. The only reason I do not want to answer the question is because it is related or went into the interrogations.

Tribunal President: That might be true, but the Tribunal has not had the opportunity to read those interrogations. This is your opportunity to answer our questions, but you do not have to if you do not want to.

Detainee: I understand.

Tribunal President: Have you ever traveled to Afghanistan?

Detainee: Not only did I not travel to Afghanistan, but I never even thought of traveling to Afghanistan.

Tribunal President: Do you know anyone that lives in Afghanistan, or have you communicated with anyone that lives in Afghanistan?

Detainee: You mean here in prison?

Tribunal President: No. Prior to coming here?

Detainee: No. Never.

Tribunal President: I don't have any other questions. Mustafa, do you have anything else you would like to present to us?

Detainee: I just want to say a small thing. I hope that this is real. I am not berating you with these words, but this is something I don't want to keep inside. I hope this Tribunal is really real. I hope that a person who has made a mistake would admit to making a mistake. No matter who this person is. Even if he is the closest person to you. What I mean by this is, if America made a mistake by bringing me here to Cuba, not just because it is hard for them to admit a mistake was made, but to prevent me from leaving here, then bring all these accusations against me. I will tell you something else, if you have evidence, big or small, that I have any relationship with terrorism or if I helped any terrorists, I am prepared for any kind of punishment in any country. I am saying this to you now, and if you wish for me to, I will sign a piece of paper saying these same words. I know people and I talk to people, but I have no way of knowing they are terrorists or not. For me to know a person, and to know for sure if he is a terrorist and I am knowingly dealing with him, that is not true. My history is known. The Algerian government knows me. In the years of 1990 through 1992, I was a champion in Algeria. The Algerian government knows my very well. They know where I live, my wife, my kids, my father and my mother. I left Algeria and went to Croatia. I was working in that organization. The team I used to train with and train has maybe one Muslim. The rest are all Catholics and Orthodox. Those people knew me very well and they respect me very much. Never did I have any problem with anyone who was not Muslim. I lived with them. Never, did I ever go into a police station. I only went to get my driver's license or passports. But to go there for a problem, never. Maybe I had a speeding ticket or something like that. Any other problems involving fighting with people, never. Nothing like that. Then comes this problem. You can also verify this in Bosnia Herzegovina, the place I lived, and who I worked with, who I trained with on the team; did I ever have any problems, or if they knew if I am an extremist in my religion or a terrorist or anything. That is what I have.

Detainee (continued): Truthfully, I read the paper that was brought to me today (Exhibit R-38), the one from the lawyer. I swear to God that I was touched. It was very hard for me to read my wife and children are suffering. My wife cannot work because she has three children and she is a teacher. My wife had to go and live with her sister because she is unable to work and has no income. Thank God I had my salary when I was working in Bosnia Herzegovina. Maybe ministers in Bosnia did not have this salary. Thank God for my work with computers. For my wife to go from that to living with her friends and her sister; and my wife's sisters are helping her because some idiots acted stupidly and do not want to right their wrongs. They do not want to say that we made a mistake. Or they admit to making a mistake but they won't do anything about it. Today is the 11th of October, I think. In seven more days, I will have been in this prison for three years. I swear to God I will tell you something, if I had a relationship with Al Qaida, I swear I would not be scared of anyone and I would tell you I am from Al Qaida. I would not be concerned about America. If I had a relationship with terrorism, I would tell you I am a really a terrorist and I would not be concerned. When I tell you that I

don't have a relationship, it is not because I am scared of you, it is because it is the truth. I don't have a relationship. So I hope that the mistake that you made; not you personally, you did not make this mistake, but those who are responsible, will fix this mistake. That is all I have.

Tribunal President: All evidence having been provided to this Tribunal, this concludes this Tribunal session. Personal Representative, do you want to present an updated Detainee Election Form?

Personal Representative: Yes, Ma'am. I am handing the Tribunal President an updated Detainee Election Form marked as Exhibit "D-C."

Exhibit "D-C" is accepted into evidence by the Tribunal.

Detainee: This election form says what?

Tribunal President: I will read it to you. It says, "The detainee wants to participate in the Tribunal." That is what allowed you to be here today.

Detainee: Okay.

Tribunal President: And it says that "You requested two witnesses. The witness will testify that you were never in the Bosnian Army and that you knew nothing of Al Qaida." It also says "The witnesses are [REDACTED] and [REDACTED]. On 5 October the detainee determined he would not attend the Tribunal. Affirmatively declined to participate since all documents would not be presented to the detainee. On 11 October," which is today, "after reviewing additional unclassified information, the detainee elected to attend the Tribunal." Is that correct?

Detainee: Yes, it is.

Tribunal President: I am sorry, I did not hear your response. I want to make sure that we understand.

Detainee: Yes, that is correct.

Tribunal President: Okay. So I am assuming at this point we have all unclassified evidence. Recorder?

Recorder: Yes, Ma'am.

Tribunal President: Personal Representative?

Personal Representative: Yes, Ma'am.

The Tribunal President instructs the Detainee on how he would be notified of the Tribunal results and the ARB process.

The open session of the Tribunal adjourned at 1421 hours, 11 October 2004.

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

DETAINEE ELECTION FORM

Date: 23 Sep 2004

Start Time: 1015

End Time: 1220

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee will attend the Tribunal. He has request 2 witnesses. The witness will testify he was never in the Bosnian Army and he knows nothing about al Qaida. The witnesses are [REDACTED] and [REDACTED]

5 Oct 2004 after, discussions on the evidence the Detainee affirmatively declined to participate in the tribunal.

Personal Representative: [REDACTED]



Sarajevo, Bosnia and Herzegovina
March 13, 2002

The Ambassador

[REDACTED]

Dear Families:

Thank you for your letter dated February 13th, 2002. The individuals referred to in your letter posed a credible security threat to United States personnel and facilities as well as to the people of Bosnia and Herzegovina. We brought the matter to the attention of appropriate domestic authorities, who detained them before transferring them to U.S. control at U.S. request.

The United States military subsequently transferred them to the United States facility at Guantanamo Bay. This approach allows the United States to safely detain these individuals while continuing to investigate.

All detainees at Guantanamo are being provided correspondence materials, and the means to send mail; as well as the ability to receive mail, subject to security screenings. It is important to note, however, that incoming mail is subject to censoring, and correspondence deemed inappropriate by authorities may not get through. Below you will find the necessary routing information, which will permit you to send correspondence to the detainees:

[REDACTED]

Exhibit 5039 ^A b

160 Camp X-Ray
Washington, DC
20355
U.S.A.

Let me assure you that the United States has treated
and will continue to treat all Guantanamo Bay detainees
humanely.

Sincerely,



Clifford G. Bond

DETAINEE ELECTION FORM

Date: 23 Sep 2004

Start Time: 1015

End Time: 1220

ISN#: [REDACTED]

Personal Representative: [REDACTED]
(Name/Rank)

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Detainee will attend the Tribunal. He has request 2 witnesses. The witness will testify he was never in the Bosnian Army and he knows nothing about al Qaida. The witnesses are [REDACTED] and [REDACTED]

5 OCT 04, detainee determined he would not attend the Tribunal. Affirmatively declined to participate, since all documents would not be presented to him.

11 Oct 04, after reviewing an addition unclassified information the Detainee elected attend the Tribunal

Personal Representative [REDACTED]

UNCLASSIFIED

Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (21 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal – AIT IDR, Mustafa.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that the detainee is associated with al Qaida, and participated in military operations against the United States or its coalition partners.
 - a. The detainee is associated with al Qaida:
 1. The detainee is Algerian, but acquired Bosnian citizenship by serving in the Bosnian military in 1995.
 2. The detainee is associated with the Armed Islamic Group (GIA).
 3. GIA is a recognized extremist organization with ties to al Qaida.
 4. While living in Bosnia, the detainee associated with a known al Qaida operative.
 5. At the time of his capture, the detainee had planned to travel to Afghanistan once his al Qaida contact arrived there and had made the necessary arrangements.
 - b. The detainee participated in military operations against the United States or its coalition partners.
 1. The detainee was arrested by Bosnian authorities on 18 October 2001.
 2. The detainee was arrested because of his involvement with a plan to attack the U.S. embassy located in Sarajevo.

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pg 1 of 2
5042
Exhibit R-1

UNCLASSIFIED

4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

UNCLASSIFIED

5043.F2

Memorandum

UNCLASSIFIED



To : Department of Defense Date 09/25/2004
 Office of Administrative Review
 for Detained Enemy Combatants
 Col. David Taylor, OIC, CSRT

From : FBI GTMO
 Counterterrorism Division
 Asst. Gen. Counsel [REDACTED]

Subject REQUEST FOR REDACTION OF
 NATIONAL SECURITY INFORMATION
 [REDACTED]

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

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

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

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC:

- FD-302 dated 08/17/2002
- FD-302 dated 08/26/2002
- FD-302 dated 05/01/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/25/2004

If you need additional assistance, please contact Asst.
Gen. Counsel [REDACTED]
[REDACTED] or Intelligence Analyst [REDACTED]
Intelligence Analyst [REDACTED] or [REDACTED]



UNCLASSIFIED

**U.S. Department of Homeland Security
U.S. Customs and Border Protection
Office of Border Patrol**

NOTE: This report is based upon information obtained from various open sources. No classified information was used in the preparation of this report.

Office of Border Patrol
1624 SSG Sims Road,
AF,
, TX 79908
Address: Attn. BPSCC P.O. Box 6017
, Texas 79906
Agent D. Thew
(5) 724-3218

Terrorist Organization Reference Guide

January 2004

UNCLASSIFIED

Pa 1 of 2
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Exhibit R-3

4. Armed Islamic Group (GIA)

Description

An Islamic extremist group, the GIA aims to overthrow the secular Algerian regime and replace it with an Islamic state. The GIA began its violent activity in 1992 after Algiers voided the victory of the Islamic Salvation Front -the largest Islamic opposition party -in the first round of legislative elections in December 1991.

Activities

Frequent attacks against civilians and government workers. Since 1992, the GIA has conducted a terrorist campaign of civilian massacres, sometimes wiping out entire villages in its area of operation, although the group's dwindling numbers have caused a decrease in the number of attacks. Since announcing its campaign against foreigners living in Algeria in 1993, the GIA has killed more than 100 expatriate men and women - mostly Europeans -in the country. The group uses assassinations and bombings, including car bombs, and it is known to favor kidnapping victims and slitting their throats. The GIA hijacked an Air France flight to Algiers in December 1994. In 2002, a French court sentenced two GIA members to life in prison for conducting a series of bombings in France in 1995.

Strength

Precise numbers unknown, probably fewer than 100.

Location/Area of Operation

Algeria.

External Aid

None known.

5. 'Asbat al-Ansar

Description

'Asbat al-Ansar - the League of the Followers - is a Lebanon-based, Sunni extremist group, composed primarily of Palestinians and associated with Usama Bin Ladin. The group follows an extremist interpretation of Islam that justifies violence against civilian targets to achieve political ends. Some of those goals include overthrowing the Lebanese Government and thwarting perceived anti-Islamic and pro-Western influences in the country.

UNCLASSIFIED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LAKHDAR BOUMEDIENE, et al.

Petitioners,

vs.

04-1166 (RJL)

GEORGE WALKER BUSH, President
of the United States of America;
DONALD RUMSFELD, Secretary of
Defense; GENERAL JAY HOOD,
Commander, Joint Task Force;
COLONEL NELSON J. CANNON,
Commander, Camp Delta; *in their
individual and official capacities,*

Respondents.

AFFIDAVIT OF [REDACTED]

I, [REDACTED] of [REDACTED]
being duly sworn, depose and state as follows:

1. I was born on September 26, 1970, in Kakanj, Bosnia and Herzegovina ("BiH"). I am a Bosnian citizen. I married Ait Idir Mustafa in a religious ceremony held in Zenica in June 1996; the civil ceremony was held and registered in Vogosca Municipality in September 1996. We have three children: [REDACTED] born in 1997; [REDACTED] born in 2000; and [REDACTED] born in 2002. All of our children are Bosnian citizens.
2. My husband Ait Idir Mustafa was born on July 9, 1970, in Sidi Mhmad, Algeria, as an Algerian citizen; his parents are [REDACTED] and [REDACTED]. My husband lived with his parents, six brothers and two sisters up until 1993. He has completed two years of post-secondary education, and training in the field of information technology ("IT").
3. I am one of six children. As my family is religious, my brothers and sisters and I attended the Sarajevo Medresa, a well-known and highly regarded school with a long history and tradition. I graduated from the Medresa in 1989, and began work in April 1990, as a teacher in a religious community, based in Capljina and serving Stolac, Ljubuski, Pocitelj and surrounding villages. Because of the outbreak of the civil war, I was forced to leave BiH for Split, Croatia. I worked as a teacher with Bosnian refugees who were living in refugee camps in Split and in the surrounding area. In early 1994, I was transferred to work in Zagreb, as there was a greater need for teachers there. In May 1994, I returned to my family home in Kakanj. I worked for the humanitarian aid

- 1 -

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EXHIBIT R-38

organization Katar in Zenica, from December 1994 until May 1996. Since then, I have graduated from Islamic Pedagogical Academy, and am pursuing further education.

4. My husband came to Croatia in 1993 when his job as an IT specialist was relocated from Algeria. For business purposes, he regularly traveled to BiH in 1994. By November 1994, he was permanently residing in BiH and working for the humanitarian aid agency, Igasa. He applied for and received BiH citizenship in February 1995. In 1995, he applied and was hired for the position of general-secretary for the humanitarian aid organization Katar based in Zenica. In his spare time, he taught karate at the Zenica Karate Club. In March 1996, he was transferred to work in the Tuzla office of Katar, which closed in December 1996. Following the closure of the Katar Tuzla office, he moved to Sarajevo. In March 1997, he was employed by the humanitarian aid organization Taibah, as the IT system administrator, where he worked up until the time of his arrest. He had many interests and activities, such as the karate club Bosna, where he was a member, and later a coach. On weekends he volunteered at the Red Crescent society, where he worked with orphaned children. He is a responsible, devoted father and family man. After the birth of his first son, he actively supported my further education by taking responsibility for the care of our son while I was at school.
5. On October 18, 2002, at 1:05 a.m. several BiH police officers accompanied by unidentified foreigners speaking English came to our apartment with a search warrant. They told us they were looking for weapons. They also demanded to see my husband's identification papers, and seized both his Algerian and BiH passports. At 3:15 a.m., he was taken into BiH police custody. All of this took place in front of me and our children. On 19 October at 00.30 a.m. our lawyer informed me that the police had arrested my husband in connection with suspected terrorist activity. On January 17, 2002, the Bosnian Supreme Court ordered his immediate release on the ground that there were no reasons upon which pre-trial detention could be ordered. Disregarding this decision, the Federation Police transferred my husband to United States custody at 6:00 a.m. on January 18, 2002.
6. The expulsion of Ait Idir Mustafa, a citizen of BiH, was made possible by the fact that his Bosnian citizenship was revoked shortly after his arrest. The revocation was based only on the charges alleged against him; the criminal charges were treated as evidence of guilt. He appealed the revocation, but was handed over to the United States forces before the Supreme Court reviewed the revocation proceeding; on December 19, 2002, the Supreme Court annulled the decision to revoke my husband's citizenship, and held that my husband never lost his citizenship. Accordingly, at the time of his expulsion, he was a citizen of BiH.
7. After his wrongful expulsion, I lodged an application on my husband's behalf with the Human Rights Chamber for BiH ("Chamber"). According to the April 4, 2003 decision of the Chamber, the respondent parties, BiH and the Federation of Bosnia and Herzegovina, violated my husband's rights not to be arbitrarily expelled, to be presumed innocent until proven guilty, and not to be subjected to the death penalty. The Chamber also ordered the respondent parties to take all necessary action to protect my husband's

rights while in United States custody and to compensate my husband for non-pecuniary damages.

8. On December 31, 2002, the United States Embassy in Sarajevo sent me a letter, telling me that my husband had been transported to Guantanamo Bay by United States forces on January 19, 2002 as an "enemy combatant." The Embassy informed me that he would be detained for an indefinite period of time, although no charges had been brought against him. My husband is also prevented for an unlimited time from being visited by family members. I am deeply concerned that the indefinite term of his custody and isolation from his family may cause him severe psychological and/or physical damage. In fact, in one letter he sent to me, he told me he was on a hunger strike. As time passed, his letters became more and more pessimistic.
9. I am in irregular contact with my husband with the assistance of the International Committee of the Red Cross. In the last few months I did not receive any news from my husband. Only recently I received letters and postcards from him, all dated September and October 2003. They were heavily censored, perhaps more so than the earlier ones. Even though I do not know if and how many of my letters my husband receives, I write to him often, and include in my letters the letters our son writes to him and pictures of our children.
10. Since my husband was taken into custody, I have worked very hard on his behalf. My activities for my husband's release include regular contacts with BiH government and international organizations, especially human rights organizations.
11. My financial situation has been very difficult since my husband was taken to Guantanamo. He used to provide financial support for my children and me. Despite my efforts to find work, I am unemployed. I live with my sister, and receive support from my family and friends. Apart from financial problems, it is very hard for me to explain the situation to my children. First, I tried to hide it from my eldest son, but this was not possible. He asks me everyday when his father is coming back, and writes to his father very often. Due to the sudden disappearance of his father and related trauma, [REDACTED] our four year old son, started to pronounce his first words only just a few months ago. [REDACTED] our youngest son, who was born 5 months after his father was expelled from BiH, knows his father only through our stories.
12. It is my belief, based on the messages my family received, and from everything I know about my husband, that he is seeking my assistance and support and would want me to take appropriate legal action on his behalf as his next friend. In this capacity, I have retained and hereby request Wilmer Cutler Pickering Hale and Dorr LLP, and any person authorized by that Firm, to act on my own and Ait Idir Mustafa's behalf and to take whatever legal steps they consider to be in our best interests, in connection with my husband's detention at Guantanamo.

I know the facts deposed herein to be true to the best of my knowledge.

Sworn to by the deponent on this tenth day of August, 2004.

[REDACTED]

Liliana Scasascia Kleiser

Witness: Liliana Scasascia Kleiser

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LAKHDAR BOUMEDIENE, et al.

Petitioners,

vs.

04-1166 (RJL)

GEORGE WALKER BUSH, President
of the United States of America;
DONALD RUMSFELD, Secretary of
Defense; GENERAL JAY HOOD,
Commander, Joint Task Force;
COLONEL NELSON J. CANNON,
Commander, Camp Delta; *in their
individual and official capacities,*

Respondents.

AFFIDAVIT OF [REDACTED] AUTHORIZING REPRESENTATION

I, [REDACTED] hereby depose and say:

1. I am [REDACTED] of [REDACTED]
2. I am acting as the next friend of my husband Ait Idir Mustafa, who is in the custody of the United States at Guantanamo Bay Naval Base, Cuba.
3. I hereby authorize Wilmer Cutler Pickering Hale and Dorr LLP, and any person authorized by that Firm, to represent me in all proceedings relating to my husband's detention by the United States, and any and all proceedings related to my husband's status under custody of the United States.

Signed: [REDACTED]

Date:

10/08, 2004

Witnessed:

[Signature]

Liliana Scasascia Kleiser

Date:

10. August, 2004

Personal Representative Review of the Record of Proceedings

I acknowledge that on 21 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]

Name

21 Oct 2004
Date

[REDACTED]

Signature

ISN # [REDACTED]
Enclosure (5)

redacted any information that would personally identify other detainees and certain U.S. Government personnel in order to protect the personal security of those individuals. I have also redacted internee serial numbers because certain combinations of internee serial numbers with other information become classified under applicable classification guidance.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 12 Oct 04



James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0211
11 October 2004

FOR OFFICIAL USE ONLY

From: Director, Combatant Status Review Tribunal

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

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

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

A handwritten signature in cursive script, appearing to read "J. M. McGARRAH".

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

FOR OFFICIAL USE ONLY

5056

11 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # [REDACTED]Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004Encl: (1) Appointing Order for Tribunal #6 of 13 September 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:
 - a. The detainee was properly notified of the Tribunal process and voluntarily elected not to participate.
 - b. The Tribunal was properly convened and constituted by enclosure (1).
 - c. The Tribunal complied with the provisions of references (a) and (b). Note that some information in exhibits R-3, R-4, and R-6 was redacted. The FBI properly certified in exhibit R-2 that the redacted information would not support a determination that the detainee is not an enemy combatant.
 - d. The detainee made no requests for witnesses or other evidence.
 - e. The Tribunal's decision that detainee # [REDACTED] is properly classified as an enemy combatant was unanimous.
 - f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.
2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.
3. I recommend that the decision of the Tribunal be approved and the case be considered final.

James R. Crisfield Jr.
CDR, JAGC, USN



Department of Defense
Director, Combatant Status Review Tribunals

13 Sep 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #6

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

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

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

MEMBERS:

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

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

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

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

6 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

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

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

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


DAVID L. TAYLOR
Colonel, USAF

**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #6

ISN #: [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and was part of or supporting Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The initial session of this Tribunal was held on 27 September 2004. The Recorder presented Exhibits R-1 and R-2 during the unclassified portion of the Tribunal. The Unclassified Summary of Evidence (Exhibit R-1) indicates, among other things, that the detainee is a supporter of Al Qaida and has on multiple occasions provided subsistence to [REDACTED] a known Al Qaida operative. The Unclassified Summary of Evidence also indicates the detainee admitted retaining and financing legal representation for a known Al Qaida operative after that operative's arrest for terrorist activities. The Recorder called no witnesses.

The detainee chose not to attend the Tribunal as reflected in the Detainee Election Form (Exhibit D-A), and the Personal Representative presented no evidence and called no witnesses.

During the classified session of the Tribunal, the Recorder presented Exhibits R-3 through R-14. The Personal Representative presented no classified evidence, and neither the Recorder nor the Personal Representative commented on the classified exhibits. After the Tribunal read all of the classified exhibits, the Tribunal requested additional information and recessed until the Recorder could obtain it.

The Tribunal reconvened on 1 October 2004. In response to the Tribunal's request, the Recorder offered into evidence additional classified Exhibits R-15 through R-24 after giving the Personal Representative an opportunity to review the documents. Neither the Recorder nor the Personal Representative had any comments on the additional

documents. After considering the unclassified and the classified evidence, the Tribunal determined that the detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-24 and D-A.
- b. Testimony of the following persons: None.
- c. Statement of the detainee: None.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

5. Discussion of Unclassified Evidence

The Recorder offered Exhibits R-1 and R-2 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2, the FBI redaction certification, provided no usable evidence. Accordingly, the Tribunal had to look to the classified exhibits for support of the Unclassified Summary of Evidence. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT Legal Advisor.

7. Conclusions of the Tribunal

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

- a. The detainee chose not to participate in the Tribunal proceeding. No evidence was produced that caused the Tribunal to question whether the detainee was mentally and physically capable of participating in the proceeding, had he wanted to do so. Accordingly, no medical or mental health evaluation was requested or deemed necessary.

b. The Personal Representative informed the Tribunal that the detainee understood the Tribunal process, but chose not to participate, as indicated in Exhibit D-A.

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

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

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

Colonel, U.S. Army
Tribunal President

DETAINEE ELECTION FORM

Date: 24-Sep-04

Start Time: 1830

End Time: 1850

ISN#: [REDACTED]

Personal Representative: [REDACTED] LCDR, USN
(Name/Rank)

Translator Required? YES Language? ARABIC

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

Detainee Election:

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

Personal Representative Comments:

Stated he would not participate in the tribunal or make any statements.

Personal Representative: [REDACTED] LCDR, USN

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Combatant Status Review Board

TO: Tribunal Member

FROM: OIC, CSRT (21 September 04)

Subject: Summary of Evidence for Combatant Status Review Tribunal BOUMEDIENE, Lakhdar.

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is an al Qaida supporter.
 - a. The detainee is a supporter of al Qaida:
 1. The detainee is a native of Algeria who, since 1990, has repeatedly traveled to hotspots of regional conflict throughout the Middle East and Eastern Europe.
 2. The detainee has on multiple occasions provided subsistence to [REDACTED].
 3. [REDACTED] is a known al Qaida operative.
 4. The detainee has given conflicting statements as to the nature of his association with [REDACTED].
 5. The detainee admitted retaining and financing legal representation for a known al Qaida operative after that operative's arrest for terrorist activities.
4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Exhibit 5065 ^{RI}

Memorandum



To : Department of Defense Date 09/17/2004
 Office of Administrative Review
 for Detained Enemy Combatants,
 Col. David Taylor, OIC, CSRT

From : FBI GTMO
 Counterterrorism Division,
 Office of General Counsel,
 [REDACTED]

Subject REQUEST FOR REDACTION OF
 NATIONAL SECURITY INFORMATION
 ISN [REDACTED]

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

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

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

The following documents relative to ISN [REDACTED] have been redacted by the FBI and provided to the OARDEC, GTMO:

FD-302 dated 02/18/2002
 FD-302 dated 03/07/2002
 FD-302 dated 05/03/2002

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

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 Exhibit R2

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Memorandum from [REDACTED] to Col. David Taylor
Re: REQUEST FOR REDACTION, 09/17/2004

If you need additional assistance, please contact Assistant
General Counsel [REDACTED] or Intelligence Analyst [REDACTED]

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Personal Representative Review of the Record of Proceedings

I acknowledge that on 4 October 2004, I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN # [REDACTED]

I have no comments.

My comments are attached.

[REDACTED]
Name

010704
Date

[REDACTED]
Signature

ISN # [REDACTED]
Enclosure (4)