Summarized Unsworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had one question. The question is as follows:

Detainee: Yes, I do have a question. I'm not an enemy combatant. You ask from the people, if I am an enemy combatant. I was just living my life, I was working, and I was captured from my work, and I had a job as a cook. I was cooking.

The Tribunal President assures the detainee he will be allowed to make a statement later on in the proceedings. The detainee confirmed he understood the rest of the process.

The Recorder presented Exhibits R-1 and R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1). The detainee has one question about this.

Detainee: Why the unclassified documents?

Tribunal President: (Indicating to the Recorder) He'll explain that in just a minute.

Personal Representative: (To interpreter): You can explain to him that it's the information that I reviewed with him during our first interview.

Detainee: Okay.

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

Tribunal President stated that the detainee wants to participate and requested two witnesses.

Tribunal President: I see that you requested to have two witnesses here.

Detainee: Yes.

Tribunal President: Habib Ullah and Mohabat Khan.

Detainee: Yes.

Tribunal President: Since it appeared that both witnesses would be testifying basically to the same thing, I approved that you can have one witness here today. We looked for both of the witnesses in the system, and we were only able to identify for sure, one of the witnesses. And the one we could find was Habib Ullah. He is the person that we will bring here today as a witness here for you.

Detainee: Okay.

The Detainee had questions about taking the oath.

Tribunal President: Would you like to make your statement under oath?

Detainee: Are you giving it to me? Do I have to do the oath?

Tribunal President: You have the option, you may take the oath or you do not have to take the oath.

Detainee: I can take the oath, on myself, as an enemy combatant; I'm not enemy combatant. But, about Samoud, and since I was with him, when I was working for him, he didn't fire any guns or weapons, I guess, at anybody, and since I quit my job with him or at times, when I wasn't with him, god knows what he did.

Tribunal President: Do you wish to take a formal oath, or not?

Detainee: I swear, or, what I say about me, is truth.

Tribunal President: I just need to know, basically, you are telling us that what you are going to tell us is the truth, is that what you are saying?

Detainee: Yes, whatever I'm saying in here, whatever I say is truth.

Tribunal President: You may now begin.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. Initially, the detainee started answering the questions. The Tribunal President explained to the detainee the process of reading the allegations first, and then giving his statement after. He indicated that he understood. The allegations appear in italics, below.

3.a. The detainee is associated with the Taliban and/or al Qaida.

3.a.1. The detainee stated he worked as a bodyguard for Samoud.

Detainee: Yes.

3.a.2. The detainee trained, including training with the Kalashnikov, to be part of the infantry supporting Samoud.

Detainee: Yes, we did, I was a bodyguard for Samoud, but I did not get any military training.

3.a.3. The detainee was assigned two weapons.

Detainee: I had only one kind of weapon.

3.a.4. The detainee was captured by U.S. Forces at Samoud's compound with a Kalashnikov.

Detainee: How did Americans capture me?

Personal Representative: How is he captured…

Tribunal President: This is just a statement.

Personal Representative: (he rereads the statement to Detainee)

Detainee: Yes.

3.a.5. The detainee fired about 50 to 60 rounds from a machine gun as a soldier in support of one of Samoud's operations.

Detainee: Samoud has a personal enemy and he fought with him. He shot his gun, I guess. His name is Abdul Ali.

3.a.6. The detainee stated Samoud was responsible for rocket attacks against U.S. forces at the Gardiz Fire Base while the detainee worked for him.

Detainee: No, nobody fought, nobody fired rockets against Americans.

3.a.7. Samoud is an Anti-Coalition Movement (ACM) operative.

Detainee: At the time, when I was with Samoud, there were no coalition forces and Samoud had some of these bases, like military, small firebases. He had his own personal enemy. For protection from his enemy, he had some weapons at bases. He did not fire any guns or weapons against the coalition forces.

3.a.8. Samoud is reported to be an al Qaida cell leader.

Detainee: At the time of al Qaida was in Afghanistan, he was in Pakistan, and he was against the al Qaida. Samoud was against the al Qaida.

3.a.9. Samoud has been implicated in attacks against U.S. forces.

Detainee: No, he does not have any implications.

Tribunal President: Does that conclude your statement?

Detainee: It is a lot to talk about it, and I just said a little bit, about myself.

Tribunal President: You can provide us more information as this time, if you would like to.

Detainee: I will give information about myself, and I will give information about Samoud. What do you want me to tell you? Do you want me to tell you the truth, or do you want me to lie to you?

Tribunal President: We would prefer the truth, I mean you sworn to tell us the truth, and that's what we would like to hear.

Detainee: We're Afghan and we're Muslim. We, for some other, very, very important cases we don't, made or swearing or, we don't do the oath, but, you just gave me the oath for this small tribunal, for small meeting, I did the oath. First of all, I'm not an enemy combatant. We had two centers that were Samoud's. Samoud had his own enemies. We were security for him. Actually, Americans did not bother us, did not come to capture us. But, we went ourselves to complain to Americans about something. Anytime an American came to our village, my village, we supported them. We were giving our things to them we always help them. We were going with them, and then, we were coming to our house, and they were leaving. I know the leader of their base. He even gave me one hundred dollar; wait, one hundred rupees, I'm sorry. His name was Officer Maga. And he was giving me the things that you shoot it somewhere, and then the plane is coming to that place and to the bombards. Americans were not against us, and we are not against them. We always gave our support to Americans. Americans will never capture us. But someone reported us, got money because of us, and because of money, you guys captured me. And about Samoud, I will give my promise and my word to you, because he was not against the United States, and he was not al-Qaida, or he was in the Taliban. Leaving the Taliban, he went far away from them. He wanted to get far away from them, and he was living in Pakistan. When Americans came to Afghanistan, then he came as well. That was all my statement my statement is finished.

The Personal Representative and the Recorder did not have any questions.

<u>Tribunal Members' questions</u>

Q. You're a native of what country?
A. Afghanistan.

Q. What type of weapon did you have when you were with Samoud?
A. A hundred shooter.

Q. How long have you been captured? How long have you been detained?
A. More than two years.

Q. And before you arrived here, how long had you been captured by the Americans in Afghanistan?
A. Detained in 8 days in Gardiz. And then, in Bagram, we were in prison for 6 to 7 months.

Q. And how long did you work for Samoud?
A. Six months.

Q. What did you go to talk to the U.S. Forces about?
A. No, I didn't complain, but some of us complained.

Q. But, you went to talk to the U.S. Forces. What did you talk to them about?
A. No, I didn't actually go to talk to Americans. We were working with the Maga Officer, he knew me, and he gave me the money, and gave me the radar or rod. He promised me, though; he would give me a satellite phone. And then, I got captured. After then, we got captured.

Q. Did you have a weapon with you when you were captured?
A. Yes.

Q. And what type of weapon was that?
A. A hundred shooter.

Q. Who were Samoud's enemies, and why were they his enemies?
A. His enemy killed, murdered his son.

Q. So, one person?
A. Yes.

Q. And is that all the enemies he had?
A. Yes, only one enemy.

Q. So why did he need a bodyguard for one person?
A. Because his enemy had a bodyguard, and had people working and taking care of him, and Samoud did too. Abdul Ali.

Q. How were you trained to be a bodyguard?
A. There was no training, I was with him.

Q. How did you know Samoud?
A. He's in our village.

Q. When was the last time you saw Samoud?
A. The day that I got captured, that was the last day, last time.

Q. They did not capture him also?
A. No, they didn't capture him, just us.

Q. Why would they capture you and not him?
A. I don't know.

Q. Did they not tell you why they were capturing you?
A. No, nobody told me anything. I'm thinking that it was because of money I got captured.

Q. You made a statement before about shooting at planes, I didn't understand? Can you explain?
A. That was from an American. An American gave me these.

Q. Americans gave you weapons to shoot at planes?
A. We were not shooting at the plane with the tools, or the equipment; you hold it in your hand when the planes see that, and then the plane was bombarded.

Tribunal President: I want to thank you for participating in this tribunal today.

Detainee: Thank you very much, I think I give everybody, I bothered everybody, like six or seven people in here, and I give you thanks to all of you.

The Tribunal President explains the witness questioning process to the detainee and the detainee confirms that he understands the process.

The Tribunal President called for a brief recess while the witness is brought into the room.

Hearing is reconvened with witness and detainee present.

Tribunal President: This hearing is now reconvened with the witness in the room. For the record, please state your name.

Witness: Habib Ullah

Tribunal President: You are here today to testify in the case of Shardar Khan.

Witness: Yes.

Tribunal President: Are you willing to do so at this time and to do so under oath?

Witness: Yes.

Tribunal President: Recorder, please administer the oath.

The recorder administered the oath to the witness.

Tribunal President: Shardar Khan, do you have any questions for the witness?

Detainee: No, I don't have any questions.

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

Personal Representative: Yes Ma'am, I do. Habib Ullah, how do you know Shardar Khan?

Witness: Shardar Khan was from my village and we worked together in the center. Center is work.

Personal Representative: Did you also work for Samoud?

Witness: Yes.

Personal Representative: Do you know if Samoud ever attacked the Gardiz Fire Base?

Witness: I don't know. I'm not sure, I don't have any information about that, but I was told that earlier, or if that an American or if that was his enemy?

Personal Representative: Do you know if Samoud was involved with the Anti-Coalition Movement?

Witness: I don't have this information.

Personal Representative: Do you know if Samoud ever attacked American forces in Afghanistan?

Witness: I don't have that information.

Personal Representative: You were with Shardar Khan in Samoud's camp?

Witness: Yes.

Personal Representative: Do you know if Shardar Khan ever received any military training at Samoud's camp?

Witness: No.

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

Recorder: No Ma'am I do not.

Tribunal President: Tribunal members, do you have any questions for the witness?

Tribunal Member: Yes. The last three or four questions you did not seem to know. What did you do for Samoud?

Witness: Who, me?

Tribunal Member: Yes.

Witness: I was cook. And Shardar is right here; you can ask him about that.

Tribunal Member: Do you know if Samoud worked with al Qaida or the Taliban?

Witness: No.

Tribunal Member: Who were Samoud's enemies?

Witness: Abdul Ali

Tribunal Member: Is that the only enemy he had?

Witness: And he had another enemy, his name was Gardiz?

Interpretor: I'm sorry I didn't understand Gardiz; the providence of Gardiz, or the name of the guy is Gardiz.

Tribunal Member: Yes, was that a person or the place?

Witness: Gardiz is the providence. He does not know the name of the person but that was providence of Gardiz.

Tribunal Member: What was Shardar Khan's job?

Witness: His job was chopping wood and bringing, carrying water.

Tribunal Member: Is that the only job he had for Samoud?

Witness: You can ask him, he would tell you.

Tribunal Member: I'm asking you.

Witness: I saw him cutting wood and bringing, carrying water.

Tribunal Member: How long have you known Shardar Khan?

Witness: I didn't know him earlier, I knew him from the job in the center, where we worked.

Tribunal Member: And how long was that?

Witness: Three months, two to three months.

Detainee: More than that.

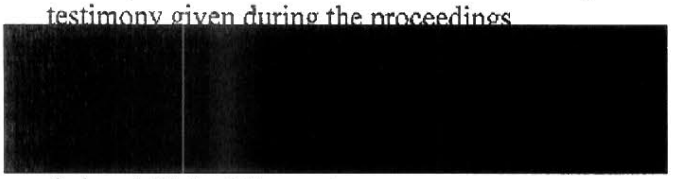
Tribunal Member: Did Shardar Khan ever work as a bodyguard for Samoud?

Witness: Yes.

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

AUTHENTICATION

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



Colonel, United States Army
Tribunal President

Summarized Detainee Sworn Statement

Tribunal President: This hearing shall come to order and for the record, this is a reconvening of a previous hearing for Sarajuddin. For the record the Tribunal panel is the same as previously convened however, there has been some changes in other Tribunal staff. At this time I would like the Recorder to be sworn in.

Tribunal President administered oath to the Recorder.

Tribunal President: The Reporter has also been changed for this Tribunal. The Reporter will now be sworn.

Recorder administered oath to the Reporter.

Tribunal President: For the record, the Translator will now be sworn.

Recorder administered oath to the Translator.

Hearing recessed to bring in detainee. The Tribunal President reopened the Hearing.

Tribunal President: Sarajuddin we have reconvened this hearing because of additional information that we have received. Some of this information is unclassified and it is provided to this Tribunal in your presence. The three Tribunal panel members have been previously sworn and this is the same panel you met before. Also the Personal Representative is the same as you had before and he also has been sworn. Also previously the Recorder, Tribunal Reporter and the Translator who are new to this hearing have also been sworn. I will also remind you that the following applies during this hearing as it did at the previous hearing. You may be present at all open sessions of the Tribunal and that is why you were brought back today because this is another open session of the Tribunal. A reminder that if you become disorderly you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence. You are also reminded that you do not have to testify at this Tribunal, but you may testify if you wish to do so. In your previous appearance at this Tribunal you provided a Muslim Oath and I remind you that any testimony would be considered to be under oath to tell the truth. You have the assistance of your Personal Representative as we conduct today's proceedings. Sarajuddin do you understand this process and why your here today.

Detainee: Yes I understand but I do have one concern, one question. Can I say it?

Tribunal President: Yes please.

Detainee: The allegation that I had before, I did answer it and I brought a witness too. If the Tribunal has some new additional information I can answer and I do have a witness for those also. If they just have some clarification on questions then I will answer it and ask the Tribunal to make a decision. That's why I'm here today.

Tribunal President: Okay. There are no new allegations or no new unclassified summary information. In our previous questions to your previous witness, your brother, one of the questions was why was your home bombed? Your witness, your brother, said that he did not know, that the United States should know. Part of the reason that you're here today is that the panel did want to know more about why your home was bombed. Related to that, was also another piece of evidence provided to this hearing at the previous assembly. Unclassified evidence identified by R-3 is a New York Times article. This article was provided to you previously for our first hearing. It also addresses the same issue related to the same question that we posed to your brother regarding why your home was bombed. At this time I believe I would like to ask the Recorder if he has any unclassified evidence to present to this Tribunal.

Recorder: Yes sir.

Detainee: If he has some allegation then I can provide a witness for that because I would like to provide a witness for the Tribunal. If they have any I would like to reconvene the Tribunal.

Tribunal President: I understand that you may have a witness for us regarding the information provided but again, a reminder, we have no new allegations regarding your status as an enemy combatant.

Detainee: Okay. Just make sure it's not a new allegation.

Tribunal President: I understand.

The Recorder presented Exhibit R-20 thru R-22 into evidence.

Tribunal President: For the record, the panel is reviewing the unclassified evidence provided.

Detainee: Okay.

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

Tribunal Member's questions

Q. I'm assuming you have seen this document. First of all, I do want to say every time I ask you a question about this, I want to state that I have the greatest sympathy. This is tough for me to ask questions. I guess I want to start off with some clarification by telling you the New York Times article basically implies that you were harboring Haqqani. When I look at this other document it says "U.S. bombs hit walled compound, four buildings of Abdul Gul killing his mother, six brothers and sisters." I wanted to see if I could get you to describe your house. Do you own all of the homes in your compound? Are they all your homes?

A. There was an allegation about Haqqani that he was present in my house and that is why the United States struck. I swore before, I told them that he wasn't there. I did not know this person. I gave a witness. They can testify that that person wasn't in my house at that

time. Other than that, if you're asking the person who mentioned Haji Abdul it is his neighbor, his villager and he can answer more of your questions if you want to ask him.

Q. This article says you have a wall around your house. Is that common?
A. In our country they do have walls around the house. Under there they make rooms. Sometimes in the middle of the house. Sometimes they make a wall. That's for security for the house. The United States bombed two places. The bombing happened in the Zana Khil (ph) village, and it was my house. The person mentioned in the newspaper, the villager, he said his own house in the village and my own house in the village and they bombed my house. So if that is an allegation on me that Haqqani was there at my house then I will get a witness to present to the Tribunal which can testify that he was not there and I did not know him.

Q. How many people were in your house or on your property the night the bomb hit?
A. There was close to forty people in that house, including children, females and males.

Q. Everybody was a member of your family?
A. Yes.

Q. No guests were staying there that usually don't stay there?
A. No I didn't have guests. The guest that they referred to was that person Haqqani. I do have a witness to say that he wasn't there. If you have more allegations I would like to have a witness. I am innocent and poor and what happened to me wasn't fair. I just swore before in my interrogation and I can do it for the Tribunal as well. If you have more allegations I will go and get another witness for that and for the future also.

Q. Is it your brother you would bring back to say that nobody was there? Who is the witness in the camp that you're talking about? We would like the name today if possible.
A. When I see the allegation then I can see who would actually be a good witness for it, then I can give a name to my PR. If the Tribunal decides that it is acceptable then they can bring those people here.

Tribunal Member: There are no allegations.

Q. How many other buildings do you own? How many of the buildings?
A. That's the only house.

Q. Do you have a guesthouse?
A. No.

Q. Do you have a barn?
A. No.

Q. Haqqani was pretty famous during the war against the Russians. Do you know where he is from?

A. You asked me before and I told you and I can take the oath again but I do not know this person, I never met him and I don't have any information about him. Why don't they ask people who do know him. It must by mistake; somebody told him that they ask me about this person all the time. I told you a couple time that I don't have any information on this person.

Q. You know he's not in your village, correct?
A. It is not fair. If it were true then it happened to me because of that one person which I had never known, they had information about him. They ask me about this person all the time, if I knew him and if he was there at the time, I brought a witness before, Abjah Khan, and he testified and gave witness that I really did not know him and I had no relation with him. It is not fair that because of him I lost twelve people, my family. I have been here for three years in jail and how long should I suffer just because somebody said I have information. If the government has information that I know this person or this person knows me then you can show it to me and I will answer it. If you have any evidence to show today then you can prove it to me and then you can kill me and I won't mind it. Twelve people of my family died and I have been here for three years in prison, what else does your government need from me, just because of a wrong accusation or wrong information? Any evidence that you wish to show to me, if they can prove it, then I'm in their hands, I'm here, they can kill me, I'm ready for it.

Q. I know this must be trying for you but the question I want to ask is; this article said Haqqani had bodyguards. Did you see any armed people with weapons in your village that day?
A. It was the nighttime, I did not see anything or anybody with a weapon but if somebody else did I don't know you can ask them; personally I didn't not see any.

Q. So you didn't see any strangers in his village, that day, the day before or maybe two days before?
A. No. I did not see it but if you have more concerns or allegations you can give it to my PR and he will explain it to me and I will give you all the witness information and people. It was nighttime and I did not see anyone and I don't know if they did they bombed Afghanistan and a lot of places I don't know if they bombed by mistake or not. It was our loss and I am still suffering from it.

Q. This is a question that I asked before. Were you arrested by Americans? Did they speak English?
A. It was Americans.

Tribunal President's questions

Q. Who would that witness be?
A. There are many people in the country that I can provide the names and there are people in the camp also.

Q. The person in the camp; could you give us a possible witness name?

A. You can give this allegation to my PR and I will give him the witnesses name and if the president decide to accept it then yes I can bring it. If not, that's fine.

Q. I would like to ask a question about your capture again. If you would again please review for us the circumstances of your capture, how you were approached, who approached you, what happened that evening as you were taken into custody.
A. I was sleeping in the house around three o'clock at night and I heard the sound of airplanes flying. They were flying airplanes in the daytime also but not at nighttime so I woke up. So I got up and I put my shirt on and I saw a soldier coming to the house. I went and approached him thinking they wanted to ask more questions about the bombing that happened before. When I got there they just said to turn around and they handcuffed me. They handcuffed me and my brother and my son they brought them also. We have five or six houses in the village, in one area and the soldiers were around the whole village. They got us and they were putting us on the chopper and I saw another villager and they brought him also. So they brought us together to the base and finally they brought us here and then asked me if I had a radio with me. They asked me who's radio was that and I told them it wasn't mine because if it was mine they should have record that it was captured with me. They didn't have anything it was just asking and nothing else. If it is my neighbor's, I don't know about him because they surrounded all six houses. If they found it somewhere else I'm not responsible for it. I don't know how to use it and it wasn't mine.

Q. Your area of your village; The New York Times article implied that a neighbor was your cousin Haji Abjah Gul. Is that correct? Is he your neighbor living next door?
A. He is not my relative but we are close to each other.

Q. Then you know him then?
A. He is a villager yes.

Q. Close as in across the street? Down the block?
A. I don't really know the meters but I will tell you it is not that far and it is not that close.

Q. I understand. I know it's difficult to have distances. I'm familiar with homes and compounds in the Middle East and I do have a question. Do you have more than one wife? I understand how difficult it is because you had lost your wife during the bombing so I have extreme sympathy and it is very hard for me to ask this question.
A. Only one wife.

Q. The reason I asked that question is, just so you understand, it is not normal for our culture to have more than one wife but I do understand it is tradition. If so, the compound would have different homes within the compound. That may explain some of the confusion we have about some of these reports of damage.
A. It was a big house with seven to eight rooms. Since I was married, two of my brothers were married, and my sons, they are married so each one needs their own rooms. That's why I have this many rooms in one house.

Q. I understand. Thank you. I'll ask one last question regarding the allegations that were provided to us. It goes back to the thirty thousand rupees provided by Pacha Khan through, I believe you said, the village elder to rebuild your home. At the time of your capture did you have any commitments or any occupation or relationship with the governor of Khost to repay the loan or repay any of these funds?
A. The witness was there and he explained it also. What more information do you want from me?

Q. I was just reconfirming that you didn't have any kind of relationship with Pacha Khan and it was just a village affair.
A. Pacha Khan is from the Gardez province and I am from Khost. We don't even live in the same area. Like the witness said I did not know him and I never had any relation with him. The person in the village is Nazim; he had given me the money and if he knows him or has any relations with him, I don't know.

Tribunal President: That concludes this reconvened Tribunal.

Detainee: (inaudible) stuff to the PR about the village elders.

Tribunal President: Yes. That was what I was getting to next.

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

Personal Representative: During the interview prior to the reconvene of this Tribunal with the detainee, he had mentioned that during one of his interrogations during the first half of his detention here at Guantanamo that he was shown a document that was written by the Counsel of Khost which is comprised of tribal elders. This document stated that his house was bombed by accident and requested, through the United States Army, that he be released.

Detainee: The Counsel wrote to the American government that the person is innocent and that nobody went to his house and America went and bombed his house. It was wrong information and they should pay him for his loss.

Tribunal President: I understand your request that the Personal Representative has provided us. I will consider requesting that document but that would be addressed in a closed session. For the record, your previous request for additional witnesses to address other matters is also taken under advisement. I would like the Tribunal to deliberate and if we require additional information we can review the status of your witness request. As the detainee is well aware, some of the matters discussed here are a matter of relevance, do they relate to your classification as an enemy combatant. We will adjourn this open session with the comment that I would like to make to the detainee that we will consider these matters carefully and make our determination accordingly.

Detainee: Can I say something?

Tribunal President: You may, we have not formally adjourned.

Detainee: They bombed my house and I was captured in my house. I wasn't a commander, I was never in any fight, I didn't want to fight against anyone. So how could I fit into the description of enemy combatant?

Tribunal President: I understand your comment and we will consider these matters.

Recorder: Can I ask two questions?

Tribunal President: That is a good point of order that the Recorder should have an opportunity to ask questions.

Recorder's Questions

Q. When the Americans came and captured you, did you ever go outside?
A. They captured me in the room, inside.

Q. You said you heard the airplane. Did you not go outside to investigate that?
A. Like I said the plane was flying in the daytime but I heard it I went outside to check it because they were flying the whole day.

Q. Did you hear any gunfire prior to you being captured?
A. No.

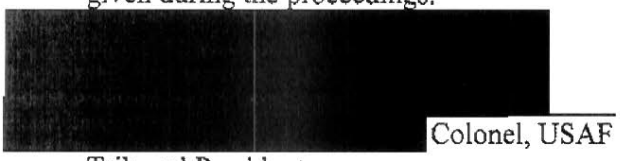
Detainee: The only thing I have a question or concern is that what happened to and I want to actually suffer. Because you all know what happened to me, it was wrong what happened, and it was [based on] wrong information. Nobody came to our house, nobody can say anyone was in my house and I do not know that person.

Tribunal President: I understand your comments.

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

AUTHENTICATION

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



Colonel, USAF
Tribunal President