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Statement On Behalf of The Detainee Given By The Personal Representative

Shortly after my arrival to Kabul, within one week I went into the hospital. I stayed in the hospital for roughly six months prior to my departure from Afghanistan. I never actively fought against the US or coalition forces during my time in Afghanistan.

AUTHENTICATION

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



Colonel, USMC
President, CSRT

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Summarized Sworn Detainee Statement

When asked by the Tribunal President the detainee stated he understood the CSRT process and he did not have any questions.

When the Tribunal President asked if the Detainee had any questions concerning the Tribunal process, the Detainee commented he was concerned with the amount of time he was given to prepare for the process.

Detainee: Yesterday, I met with my Personal Representative (PR) for about two hours and today I met with him for approximately 30 minutes. I feel for such a serious matter that could determine my faith, the system is flawed. I understand the wording from the script you have read, but I don't believe the script is straightforward.

Tribunal President: Is there any part in particular? Would you like me to read through it again and try to explain the terms as I go?

Detainee: I think going through it again would be a good idea. There are some terms I would like to ask about, mainly the accusations I have been accused of.

President: We want you to understand the process and what we are going through here, so I will go through this one more time.

Detainee: I am not one hundred percent sure on what you mean by the definition of 'enemy combatant?' I read it earlier with my PR, but I would like to have a better understanding of the process.

[The Tribunal President reads the definition of an 'enemy combatant' to the Detainee.]

President: One thing I would like you to understand, the panel has not seen any of the evidence against you. At this point, you may be right that you have not properly been classified as an enemy combatant. We have not yet had a chance to view the evidence to say you are or aren't from this point of view. You have been classified as an enemy combatant by the United States. Are job is to do an administrative review of this classification to ensure it was done properly. That is what we are here to do today.

Detainee: I still don't fully understand the actions I have committed, to be classified as an enemy combatant. I have read the definition of "enemy combatant" several times. I find it to be very vague and too have many meanings. For instance, I carried a weapon with your enemy, so I am an enemy combatant. I would like to fully understand this, so I can defend myself.

President: As you have heard from the Oath we took, we are to apply our common sense, our knowledge, our sense of justice to this definition and to you, in order to come to a conclusion as to whether you have been properly classified as an enemy combatant or not. That is what we are going to do today. We are going to go over the evidence that

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the government provided. You are going to see the unclassified portion. I am going to make an assumption at this point there is classified evidence you won't be able to read, but I think the important thing for you to do is to tell us your story, your truths and then we will weigh that against the evidence and we will try and put it all together. Your faith is in our hand if you will, it is designed to be a broader definition than specific incidents because no one individual would meet all specific incidents. It is a broad definition, but we will apply our professional judgment, we will apply good common sense and we will give you an honest and fair opportunity to defend yourself.

Detainee: Thank you.

When asked by the Tribunal President if the Detainee was ready to proceed, the Detainee stated, "yes."

[After the Unclassified evidence was submitted to the Tribunal panel, The President took a recess to allow the PR to go over exhibits R-4 and R-5 with the Detainee; when it was discovered the PR had not previously seen the exhibits.]

[The Tribunal President explained for the record:] The Detainee requested seven witnesses; three witnesses were requested to testify concerning his arrest that were told you were not arrested at the time of your detention. Since the conditions of his arrest are not a factor as to whether or not he is an enemy combatant, these witnesses are deemed not relevant. Therefore, the requests for those witnesses have been denied. The Detainee also requested three witnesses who were suppose to be members of the British Intelligence Agency, but he only provided first names. The British Intelligence Agency was expected to testify that they were aware of the information indicated in the unclassified summary. I don't believe whether the British Intelligence Agency knew of that information or not is irrelevant. That request was denied.

Detainee: [referring to the Unclassified Summary of the Evidence, marked as Exhibit R-1, (hereinafter referred to as "Exhibit R-1")] Paragraph 3.a.5: In addition to helping Abu Qatada evade British authorities, the detainee transferred funds between branches of the Arab Bank at Abu Qatada's direction in 1999 and 2000. My request for the British Intelligence Agents is to say they knew about that.

[The Tribunal President asked the Detainee if he had told the British Intelligence Agency where Abu Qatada was?]

Detainee: Do you want me to go through this now or wait until later when I can go over each individual point?

President: Why don't you do it later during your sworn statement. At this time, because of the lack of last names, they are unreasonably available. I still determine they are not relevant at this point.

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Detainee: The individuals actually came here to visit me on more than one occasion, so they aren't unknown.

[Tribunal member makes a suggestion to listen to the Detainees sworn statement and then, at a later point, make a determination on the relevancy of the witness.]

President: The Detainee requested his lawyer testify 'that what he has been accused of in the summary of evidence is not illegal in Britain'. This is not a legal proceeding and the testimony has no relevance on this proceeding. The request for the witness is denied.

Detainee: The part that says I transferred funds under the direction of Abu Qatada. The money went to Abu Qatada's father who I would like to testify to this, since he actually received the money and what the money was used for.

Tribunal President: Because of the short time you had to prepare for this Tribunal (that you interjected earlier), I will hold that witness into consideration as well, and if I feel it will be relevant to the decision, I will reconsider that witness request."

Detainee: Thank you.

[The Tribunal President asked the Detainee if he could provide information on where Abu Qatada's father is located? The Detainee stated he was in Jordan and he could possibly provide an oral statement. The President commented he just wanted to make sure the Detainee could provide a location if he was determined to be relevant.]

When asked by the Tribunal President if he wanted to make a statement the detainee stated yes and provided his statement after electing to be sworn. The detainee testifies essentially as follows:

[Regarding Exhibit R-1, paragraph 3.a.1. (The Detainee provided harbor in London, United Kingdom to a known al Qaida fugitive in the name of Abu Qatada.)]

Detainee: Please clarify the word 'harbor', so I can understand the accusation.

President: In this case, I would look at the word to mean shelter, to hide him from authorities, protection.

Detainee: Abu Qatada is Jordanian and has lived in Britain for several years after being granted political asylum by the British authorities. Abu Qatada is a preacher and my friend. Many consider him a fundamentalist. The authorities don't necessarily like what he said, but he was never arrested for it. Before September 11th Abu had appeared on television, but after September 11th, he became very well known in the media and made several television appearances. My involvement with Abu started as it has with many people in the community. Because I speak English, I have been asked to translate for people. The same is true for Abu. He has asked me to translate for him and because I am handy around the house, he asked me to help him with repairs. I have listened to Abu

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preach, as well as many others. Over the years we have become friends. As I said previously, when he gets in touch with me it is usually for a specific reason (translating or home repairs).

Detainee: Before my trip to Africa and subsequent kidnapping, Britain did not classify Abu Qatada as al Qaida. During the time I have known Abu Qatada I have translated for him in several meetings with officials from either the British Intelligence Agency or the British police. In those meetings, the word al Qaida was never mentioned.

Detainee: "My mother told me to stay away from al Qaida."

[Detainee continued his statement:]

During a meeting with British Intelligence, I had asked if it was okay for me to continue to have a relationship with Abu Qatada? They assured me it was; they just wanted to understand more about Abu Qatada and the community.

I have lived in Britain for 18 years; and I don't have a criminal record. Nothing indicated Abu was involved with al Qaida. I only learned about the word 'al Qaida' after 11 September. Abu was not wanted by the police, when I helped him find a place to live. Several times I tried to end my association with Abu, but after a few months passed, he would call and say he needed my help and the relationship would start again. I never saw anything that indicated he was a real threat. The reason my family (and others) chose to live in the western world was for freedom.

[Exhibit R-1, paragraph 3.a.2 (The Detainee assisted Abu Qatada by locating an apartment where Abu Qatada hid from British authorities.)]:

Yes, I have told you I found an apartment for Abu. I don't deny it. When I was young, people saw my father as being a bad person because he was arrested by the Iraqi Secret Police. I made a conscience decision not to abandoned Abu Qatada.

After 11 September life changed. The British government passed a law that allowed authorities to indefinitely detain anyone they felt uncomfortable with. However, if the individual chose, they could leave Britain for another country. After this law passed, Abu disappeared. I had no idea where he was. When he disappeared I received a call from the British Intelligence Agency asking if I knew where Abu was? At that time, I didn't. Overtime, someone from the community told me Abu wanted to see me and I met him a mosque.

Tribunal member: When you say community, are you referring to the Muslim community?

Detainee: Yes, the Muslim community in London.

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My relationship with the British authorities started again after 11 Sept. They asked if I knew where Abu Qatada was? I told them I did. They also wanted some information that I was unable to provide them at the time (without going in to details). I took a role as a go between for the British Intelligence Agency and Abu Qatada. During the time he was supposedly in hiding from them the British authorities, they knew where Abu was and they used it to their advantage. During my relationship with the British Intelligence Agency, I never asked for anything or took money from them.

[Exhibit R-1, paragraph 3.a.3. (Abu Qatada has strong links to senior al Qaida operatives and facilitated the travel of individuals to an al Qaida guesthouse located in Pakistan.)]

[Detainee stated he would read from his notes:]

I was not aware of Abu's alleged activities nor did I participate in them in any way. I don't recall Abu ever asking me to do anything illegal. In fact, the type of assistance I provided to Abu (which I mentioned earlier) is not considered illegal anywhere in the world. I didn't do anything for Abu that I haven't done for other people in my community. Additionally, I have never traveled to Pakistan or Afghanistan (until the United States kidnapped me and put me on a flight to Afghanistan). I have never had any military training. If Abu was sending people to Afghanistan, he never mentioned it to me.

[Exhibit R-1, paragraph 3.a.4 (Abu Qatada is a known al Qaida operative who was arrested in the United Kingdom as a danger to national security.)]

Detainee: For argument sake, lets say Abu was a threat to national security. I was known to be Abu's friend before and after his arrest. The British authorities knew me very well. I never hid, or tried to hide from them. I always used my full name. If I presented such a threat, I would have thought they would have arrested me. I was never arrested. I think the law that was passed in London is relevant. If people are such a threat, then why does the law allow them to leave the country?

[Exhibit R-1, paragraph 3.a.5 (In addition to helping Abu Qatada evade British authorities, the Detainee transferred funds between branches of the Arab Bank at Abu Qatada's direction in 1999 or 2000.)]

Detainee: As for the word direction, for Abu or anyone else who wanted me to do something for them, all they had to do was ask me very nicely. Yes, on a few occasions, I transferred between two and three thousand dollars to Abu's father from London to Jordan. The money was collected from joint prayer during our festive season. The money was sent legally to Jordan to help the poor. I went to the bank and filled out the form with my name and address (what ever information they needed). I have no reason to doubt what these funds were used for. Abu's father visited London a couple of times, and during normal conversation I asked him about the funds. Abu's father was also questioned about the money by Jordan's Intelligence Agency. "I assure you they are more persuasive than you and nothing came out of it." Jordan is a small country and

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these funds were sent to the capital. The Jordanian Intelligence had things under control. "I want to say that I will always be ready to offer my assistance to the poor and needy regardless of their religion and race. I strongly believe that the transfer of funds from the rich to the poor should be encouraged."

"It is very important for you to understand that I did not participate in any illegal activities whatsoever."

[Exhibit R-1, paragraph 3.a.6 (In November 2002, the detainee was arrested in Gambia after arriving from the United Kingdom and was later transferred to U.S. custody in Bagram, Afghanistan.)]

Detainee: I can't see the last point to be an accusation. Is it an accusation?

Tribunal President: It is part of a statement.

Detainee: The evidence has discrepancies. That is not quite how it happened. When my friend Jamil and I got off the plane in Gambia the Immigration officer took our travel documents and pointed to the side. I had an Iraqi passport. Jamil had a British travel document. Our British friend came along and the Immigration officer pointed to the side again. I said, "this doesn't look good." He held on to our travel documents, didn't say a word and pointed again to the side. We were taken to an ordinary room in the airport. They kept telling us there wasn't a problem. Then, they said there was a small problem. Towards the end it was still just a small problem. We were taken to the Gambia Intelligence Agency where we were put in ordinary rooms. The very next morning US officials were running the show, taking pictures, and asking questions. However, the word terrorism or al Qaida was never mentioned. They were interested in my brother's peanut processing business that he was establishing in Gambia. I had traveled to Gambia to install his machinery. I planned on staying in Gambia a month to six weeks; before taking a week or two vacation.

The way things happened in Gambia was similar to the way a criminal gang would operate (from what I have seen on television). They did not beat us up on that occasion in Gambia.

The paragraph says I was later transferred to US custody. In Gambia, the Americans were running the show. Some of our things were convincingly taken away from us. My brother had exported some trucks, machinery, tools and plywood. The container with the plywood was searched thoroughly. I personally packed everything in that container. The plywood we exported for my brother's business was used to construct our cells. I later realized the shampoo and food we were given were the supplies we had taken with us to Gambia. The three to four thousand dollars I had on me at the time was also taken. I hope it is in good hands, although, I'm not quite sure. I will probably never see it again.

During our stay we were not given adequate food and the hygiene standards were very interesting. The word arrest or terrorism was never used. Their primary focus of the

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questioning regarded Abu Qatada. After two weeks in Gambia I mentioned to the officials my relationship with the British Intelligence Agency. I was hoping they could resolve the situation. I understood they were holding us was because they were suspicious. However, the situation was not handled properly.

President: You mentioned you wanted to speak to the other pieces of evidence, which I believe are copies of newspaper articles the FBI used.

Detainee: There are a few things that are incorrect with regards to our arrest.

Detainee: The document stated four individuals. There was a fifth individual in Gambia who was with my brother. He was a Gambian national and was also released. My brother and his other friend were released and sent back to the United Kingdom. It says initially there was a problem with our Visas. There wasn't any problems with our Visas. In fact, we had obtained multiple entry Visas from the United Kingdom. Regarding subsequent links to terrorist groups: The questioning concerned Abu Qatada. They were interested in the time he spent in hiding. During the questioning they tried to recruit us. "After a brief period of questioning, at the Headquarters of the National Intelligence Agency, the investigation was taken over by US officials." As I have stated before, the US was there and in charge from day one. They were not very respectful to the Gambians. Paragraph four states my brother was released, in December, without being charged and went back to the United Kingdom. The date was correct, but a US official told me my brother didn't want to leave Gambia unless he knew I was okay. The official asked me to write my brother a letter letting him know I was okay. They told me I was going to Afghanistan and my brother was going to Britain. I believe my brother was forced to leave Gambia.

Detainee: Exhibit R-5 is not correct. It says I was handed over to the UK authorities. I don't believe the UK authorities had anything to do with this; I believe they meant the US. Exhibit R-5, paragraph 3: "The interrogation took a new twist when the Gambian authorities, who were acting on behalf of the United States, invited American Intelligence personnel to quiz the al Qaida suspects" This was incorrect. They were there from day one.

Detainee: I would like for you to read the letter from my lawyer.

Tribunal President: Do you know where the letter is?

Detainee: Yes, in my cell.

Tribunal President: We will consider asking for it, if we think it is relevant.

[PR hands President Exhibit D-B (the Detainees personal written statement)]

[Tribunal President: Does that conclude your statement?

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Detainee: Yes, at this time, it is all I can remember.

Summarized Answers in Response to Questions by the Tribunal Members

Q. I am going to take you back to London. Is Abu Qatada an Aman-e-Sheik of a mosque?

A. Yes. He is like a preacher; he preaches every Friday.

Q. Forgive me for saying this, I am going to use a Christian analogy, his Congregation met in a public forum?

A. Yes

Q. Did he have a name for it?

A. We don't give it a particular name. We call it by the area it is in.

Q. You say that generally. What was this particular one called?

A. Every six months or so there was a reason to move. I have known three of them, but I don't recall their names.

Q. They were in London?

A. They were in London. They were not a secret. The Intelligence Agency knew about them.

Q. Did you consider Abu Qatada to have any Islamic authority or any authority to issue a Fatwa?

A. Yes. People would come and ask him all the time. I would translate for him.

Q. Did he ever issue a Fatwa or Jihad against the United States, the United Kingdom, or any of its coalition partners?

A. I don't believe he has. He approves and encourages people to go to Jihad (holy war). He has worse things to say about a country like Jordan or our part of the world, than he does about the West. However, he doesn't say good things about the West either.

Q. I would think he would consider those Apostates?

A. To be honest, they don't have anything good to say about any country.

Q. Given all the suspicions surrounding Abu Qatada, his penchant for Jihad, why did you continue your association with him?

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A. Talking about Jihad, this is something everybody does in London. There isn't a mosque you can go to that doesn't talk about Jihad.

Q. Lets just say Jihad in the violent sense.

A. Not everyone in London talks about Jihad in the violent sense. When someone uses the word Jihad, it doesn't mean it is against the United States. There are many issues in the world; some are just, and some are not. If I stayed away from everyone who preached Jihad, I would have to stay away from everyone who is Islamic in London. Personally, my family and I have suffered greatly since 11 September. I have family and property in the US and we are involved with the stock market. My life is not the same. After 11 September, I listened to preaching and they still talked about Jihad. However, I did not hear anything specific about killing Americans.

After 11 September, I asked Abu Qatada what he thought about it? If you stand back and look at it, it was a problem for everyone. Abu told me, "Bisher, if I was asked about 11 September, shall we do it or not, I would have said no." I also told the interrogators that if people had the same mentality as Abu Qatada, the world would have a lot less problems. I am not saying he is your friend, but he looks at things differently. He taught me to look at the consequences of my actions. I wish I could have gotten my interrogators to understand this.

Q. Knowing what you know now about al Qaida, and the definition of al Qaida, would you consider yourself or Abu Qatada, to be associated with al Qaida?

A. What I have learned about Abu Qatada and the association with al Qaida after 11 September are things associated with the newspaper. The newspapers say he is al Qaida.

Q. Did you ever observe anything in your relationship or interaction with him?

A. After I read the newspapers and was interrogated, I thought maybe he was al Qaida. After the papers and officials in Gambia said he was al Qaida, I tried to defend him. For two years it has been forced in my head that he is al Qaida. I try and go back to the time when I never thought he was al Qaida. The facts haven't changed, just the conversations and forced arguments. In hindsight, I wish I hadn't known him at all.

Q. What was your line of work in the United Kingdom?

A. I am from a wealthy family. I didn't really have a job.

Q. What about education? Tell me about your education?

A. I was a bad student. I went to the University, but I didn't finish. My family gives me money if I need it.

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Q. What line of work does your family do?

A. My family owns quite a bit of property. We own property in the United States, Iraq and Jordan. My mother is Jordanian and my father is Iraqi. Our money is in the stock exchange.

Q. Has any of your family businesses come under suspicion as being associated with al Qaida?

A. Not that I am aware of. My brother went to Gambia to start a peanut processing factory and this is how the whole story started. Many questions have been asked about the way my brother got the money for the factory, which cost him approximately two hundred thousand dollars. He refinanced his flat to pay for his business. This can easily be checked. As far as I am concerned, our financial affairs have never been scrutinized.

Q. When you wired money to Abu Qatada's father, did you know who he was?

A. Yes, he had visited London a few times.

Q. In Gambia, did the Americans identify themselves?

A. No, they lied. One instance, an interrogator asked me what he could do to make people cooperate with him? He asked me if it would help if he were Gambian? I told him I thought it would. He said he had a Gambian passport. After that, he claimed he was Gambian.

Q. Why didn't you tell the Gambians you were a UK citizen?

A. I'm not. I carry an Iraqi passport. I was entitled to get my British citizenship, however, I did not apply for it.

Q. How long have you lived in the UK?

A. Approximately 18 years.

Q. When you mentioned British Intelligence came here, what did they discuss with you?

A. It was a reunion. We discussed some things I don't want to go into.

Q. Back to point two, the British Intelligence authorities. It says you assisted Abu Qatada by locating an apartment. You said the Intelligence people came and asked you where he was. Was he wanted at that time? Were they going to arrest him under that law?

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A. I was certain they would not arrest him. They just wanted to talk to him. I'm not saying we were trying to resolve the world problems, but I was hoping to achieve something, but unfortunately we didn't.

Q. Also regarding the British Intelligence who you requested as a witness (and the President will talk about again) I am not going to tell you that if you tell us all about your meeting you will be released. Is there anything from that meeting with them that would be helpful to us to support your story or the fact that we really need to call those people in?

A. I told them I was fearful they would try to trap me or get me in trouble, they told me definitely not. I had a long discussion with another individual (a British Intelligence lawyer) regarding legal matters. I mentioned "if something was to happen to me, if I was to be arrested, what can I do?" I wanted to protect myself. He told me I could request for him to come as a witness; the agents will not be allowed to deny you that.

Q. Do you know which one of those people that was?

A. I didn't give you his name because he did not come here. From my understanding they use presumed names and the other gentleman's name is Simon. He is the lawyer in the agency. He did not come here. The other three guys are the one's that came here.

Q. You talked to Simon why you were still in London were they talked to you about where Abu Qatada was?

A. Yes.

Q. And you think they would be able to tell us you were working with them as a liaison?

A. As far as I'm concerned. Obviously the story that I tell you took place is the way I saw it. I accept there will be some discrepancies, but if they tell you they don't know me then they are not telling the truth. Of course there will always be some differences in our points of view, but that is how I saw things.

Q. As far as the transfer of funds, you said it was one to three thousand dollars.

A. Approximately.

Q. Was that each time?

A. The number of times I transferred funds was probably three or four times. This was over a three to four year period. That is why I saw nothing wrong with it. This is a very legal normal process. This money is going to feed people. I don't consider three to four thousand pounds a lot of money. For the life of me I can't relate it to terrorism.

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Q. Was it pounds or dollars?

A. I am saying dollars because they prefer the currency.

Tribunal President: I understand I just wanted to make sure I was clear in what you were saying.

Detainee: The money would initially be in pounds, we change it into dollars and then we send it. In Jordan it is easier to deal with dollars.

Q. So my understanding in the way they deal with money, you would go to a mosque on a Friday, there would be a collection and then Abu Qatada would give that to you and say 'here give this money to my father in Jordan to distribute to the poor?'

A. They made collections all the time and the money accumulated. The meeting would be in the place of prayer; the mosque we went to. I referred to the money on the particular day I received it. I took it to the bank and exchanged it into dollars. Sometimes I would go to the bank on the same day sometimes a day or two later, depending on how lazy I was. A few days after I sent the money, someone would call the family and ensured they received the money. One time the money took longer than normal and I was sent to the bank to clear the matter up.

Q. This was eighty three times over three to four years and it was three to four thousand dollars each time?

A. Three or four times. It could be a few more times. It was less than eight times.

Q. The trip to Gambia, how did your brother arrive at peanut processing?

A. My brother isn't always sensible. He had been looking to start a business for a long time and had several good ideas, including generating home electricity. Unfortunately, none of his ideas ever materialized. I had discussed with my father, before he passed away, about buying a restaurant for my brother. I still think that is a good idea. One day Omar, the fifth person who was with me when I was arrested, started talking about peanuts. My brother and I have known Omar and his family for approximately fifteen years. Omar knew my family had money, so he would throw business ideas our way. I usually listened when people came to me with ideas on how to make money. Gambia is a country that grows peanuts. Omar started talking about peanut processing. I was looking desperately at something for my brother to get involved in. When the opportunity came for my brother, I was excited. Omar had arranged for my brother to buy the peanut processing machinery in India. Everything was purchased legitimately. Personally, if it were up to me, I would have stayed in Gambia awhile and checked things out before buying the equipment.

The idea was to have a mobile factory. Instead of bringing the peanuts to the factory, we would have gone to the farmer, bought and processed the peanuts, then moved on. The

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remainder of the peanuts would have been sold for animal feed. The idea would have allowed us to be very competitive and we would have saved on transport costs. I believe it was a unique idea and it would have worked. My part in the business would have included setting up the machines on the trailer and ensuring they worked properly.

Q. Did you fly directly from Great Britain to Gambia?

A. Yes.

Q. You mentioned you thought the letter from your lawyer would be helpful. In what way do you think it will be helpful?

A. It will give you a different point of view.

Q. And you have that in your cell?

A. Yes.

Q. When you were questioned by the US authorities in Gambia, was Abu Qatada already in custody at that point?

A. Yes, when I traveled from London, Abu Qatada was already in custody for over a week. When he was arrested in London, his family was with him. When they arrested him, his family needed to go back home. They got in touch with me and my friend Jamil (905) and we came and reassured them everything was okay. The police said, "thank you very much for coming." They asked me my name and I told them. They were very nice.

Q. How long had you been planning your trip to Gambia?

A. I told my brother on many occasions to go to Gambia. I told him the minute he needed me I would buy a ticket and come. He called me and told me I had to come now. I prayed to god. My mom told me don't travel, my sister and brother in law told me don't travel, I didn't want to travel but my brother insisted. I knew I shouldn't go, but I'm went anyway.

Q. Your brother was already down there?

A. No, my brother was in London.

Q. Oh, he was back?

A. We did some shopping. Any money I was going to make from Gambia I was going to give it to Gambia. It was a poor country and I didn't need the money. I wanted to teach welding. We had gone shopping and I had gotten my shots. I took him to the airport and a week later I traveled with two other guys. At the airport in the United Kingdom, we were arrested. They said they had arrested me because of my battery charger. I had

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played around with it and converted it. It was still just a battery charger. I liked recycling things and using rechargeable batteries. I had even bought my friend Abu Qatada a battery charger and batteries.

Q. So, they stopped you for having that?

A. Do you want what they said, or what I believe? They wanted an excuse. The week prior to our arrest, Jamil and I were with Abu Qatada at his hide out. They wanted to talk to us. After they arrested us, they told us we were entitled to a lawyer. I told them, I didn't need a lawyer because I hadn't done anything. They interrogated me for several hours. I was very tired. I missed my flight. I was polite. They asked me about my life, and I answered all their questions. They wanted to ask about Abu Qatada. I told them, "they arrested me because of the battery charger. What did Abu Qatada have to do with that? If they suspect me, what does Abu Qatada have to do with this?" I told them I wouldn't answer any questions about Abu Qatada. I didn't want to answer because I thought it was abuse, they weren't being straightforward. If they wanted to talk to me, they could have just asked instead of making up an excuse about the battery charger. They lied in court. They made excuses. They said they had to bring a specialist from another country to look at the battery charger. The interrogator was very nice. He told me he had asked about Abu Qatada, because he got his instructions from somebody else. I was straightforward with him. I have nothing to hide. In hindsight, I would have asked for a lawyer and not answered their questions.

Q. You were leaving from Gambia, when this happened?

A. The first time.

Q. They held you and you missed the flight?

A. Yes. We missed the flight and they detained us for about three or four days. We were released. Our lawyer told them their place is not here, it is with their factory. I said absolutely.

Q. But you did go to court over that?

A. No.

Q. You said they lied in court?

A. They went to court because the law restricts them for the amount of time they can detain us. I learned from my lawyer they had gone to court and extended us. They gave the excuse they had to bring an expert from another country. I knew what I had and I told them about it. I had another identical battery charger in my suitcase. I converted it. I hadn't converted the electronics in anyway. I just made it waterproof.

Q. How long before you actually went to Gambia did this happen?

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A. We were going to travel on a Friday. We got arrested and were detained for a few days. We got released on Wednesday. The day we got released, we got in touch with the travel agency where we bought our initial tickets. We were told our tickets were void. The airline wouldn't accommodate us for missing our flight. We did receive a partial refund and booked our tickets over the phone. The next day we went and got our things from the police. They had raided our homes and took various items. We were released and not charged with anything. We got an apology and a smile.

Q. They released you and said you are free to go and no charges?

A. No charges.

Q. They cleared your battery charger?

A. Yes, of course. We went through a list and got everything back. Some items were damaged, but that's the nature of things. We got everything they took from us back. From our home and the airport.

Q. So you got everything back and they said you were free to go?

A. On Thursday. Friday we traveled again. Of course then, we were a bit hesitant to travel. My other friend Abdulla didn't want to travel. I didn't want to travel in the first place. But if we didn't go, it would be a disaster for my brother.

Q. On Friday, when you traveled, the airline tickets were purchased using your name Bashir Al Rawi?

A. I'm sorry I don't understand?

Q. Your name was on your ticket?

A. Yes.

Q. You didn't travel under an assumed name?

A. No. Everyone used their real name. The first time we had planned to travel, we paid for extra weight. We had an interesting relationship with the lady at the counter. When we came back the following week she said, "didn't you travel last week?" Everything went smooth the second time. I had asked to speak with an official at the airport. I explained that the previous week we were arrested, and I wanted to make sure there wasn't going to be any problems this time. The police told me they were very busy and didn't have time. I told them they weren't busy last week when I tried to travel. We traveled to Gambia one week after we got arrested. My brother was already there.

Q. When did you buy the tickets for the previous flight you were on?

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A. The same people we bought the second tickets from.

Q. The question was when, not who.

A. Approximately two days before we were to travel.

Q. You made the reservations about the same time?

A. Yes. When we tried to travel the first time, Abu Qatada had already been under arrest for a week or ten days.

Q. Before your first departure?

A. Yes.

Q. So, it was over two weeks before you actually left?

A. Yes.

Q. You were thinking about this trip on and off for months or so, then you made your reservations and bought your ticket the week before?

A. That was only for myself. Abdullah and Jamil had already bought their tickets and had their shots. It was only I who was hesitant to travel.

[Tribunal President to Detainee:]

We did talk earlier about the other witnesses you requested and what I am going to do is still withhold the decision until I read the remainder of the evidence and if I think those witnesses or the letters (in particular from the lawyers) will have a bearing upon our decision at that time I will make a decision on those. At this time, I don't feel I have enough information to make a decision positive decision either way on the relevance of those witnesses. I will withhold that until I see the remainder of the evidence.

Tribunal member: The letter, as well?

President: And the same for the letter. If we decide after we see the rest of the evidence if it will be worthwhile, we will secure them at that time.

The Tribunal President asked the Detainee if he had any other evidence to present to this Tribunal. The Detainee stated, "I don't think so."

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. No.

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[Tribunal Reconvened to examine additional evidence and to discuss witness request.]

Tribunal President: Detainee has requested three witnesses who would testify that he supported the British Intelligence Agency. We have contacted the British government and at this time, they are not willing to provide the Tribunal with that information. The witnesses are no longer considered reasonably available, so I am going to deny the request for those three witnesses. However, Detainee requested he be allowed to submit two letters from his lawyer that contains information relevant to this case. That request was approved and I believe the Detainee's Personal Representative has those letters.

Personal Representative: [Presents Exhibits D-C through D-H to the Tribunal.] I would like to note for the Record, there are some redactions made by the Detainee.

Detainee: The black out marks on the documents were done by the Guantanamo facility, I did not make them.

Tribunal President: We didn't know where they came from. So noted.

Personal Representative: The following redactions were made on the documents: Exhibit G, paragraph 52, 54 and 70; Exhibit H, page 30 paragraph 17 and 19; Exhibit H, page 31, paragraph 19, 21, and 22; Exhibit H, page 32 paragraph 24; Exhibit H, page 14, paragraph 46.

[When asked by the Tribunal President if he wanted to make a statement, the detainee stated yes and provided his statement after electing to be sworn. The detainee testified essentially as follows]:

Detainee: First I would like to thank the Tribunal for providing me a second opportunity. After I returned to my cell, I thought of a million things I wanted to say. I didn't figure I would get a second opportunity, but I was glad when on Saturday my Personal Representative informed me I would have another opportunity. Unfortunately, that day my lawyer met with me for a second time and used a lot of my time. Sunday I was moved from Camp Echo to my present cell, and I lost a lot of time to prepare for today. Today, I met with my Personal Representative and he told me the Tribunal would be this afternoon. I hurried and wrote some things. I have only ten pages. I wanted to write more, but didn't have the time.

In regards to the British government, I have learned through this experience they will not come forward and provide the truth to something that I have claimed happened. This is a crucial point in this proceeding. That itself should have cleared my name.

I hope I can convince you I am telling the truth. I will try and limit the times I use the word important, but please realize the emphasis is there. Most of my charges are based on my friend Abu Qatada. Abu Qatada is a Jordanian citizen of Palestinian origin, from the country now known as Israel. While in Jordan, he studied Islam and became a

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preacher. He had strong views and a lot to say about the Gulf War. I believe everyone in this Tribunal room has had some involvement with that war. Several people supported Saddam Hussein despite what was known about him. (I don't like or support Saddam Hussein). People of Jordan were among those who supported Saddam. Abu Qatada told the truth about Saddam Hussein (Saddam wasn't a savior but a murderer). People turned against Abu Qatada and wanted to hurt him. Accusations were made that he was CIA or he was this and that. He left Jordan and went to Pakistan where he received his Masters Degree in Islamic studies. His views were also scrutinized in Pakistan. He taught at a University in Pakistan for about two years.

I hope this Tribunal doesn't reject the truth. Abu Qatada left Pakistan for the United Kingdom with his wife and three children. He was granted political asylum by the British government and was provided a home, money, and free medical care. I guess you can say, he was harbored and protected by the British government. I am referring here to the charge that has been made against me [The Detainee provided harbor in London, United Kingdom to a known al Qaida fugitive named Abu Qatada.]

Abu Qatada arrived in the United Kingdom in 1993. His views and opinions were the same before he arrived in Britain as they are now. He took the opportunity, to utilize the freedom Britain offered and its diverse population, to voice his views. He believed it was vital for the rich to help the poor.

Abu Qatada was arrested in October 2002, approximately nine years after he had arrived in Britain. During those nine years, he preached about Jihad and hundreds of other topics.

My relationship with MI5 (British Intelligence) ended sometime mid summer 2002. A few months had passed before Abu Qatada was arrested. During that time, I saw Abu Qatada on a regular basis. If Abu Qatada was such a danger, why wasn't he arrested before? I am positive the British Intelligence knew where he was, because I told them.

I feel it is important for this Tribunal to understand the situation and the Law in Britain that allows the British authorities to arrest anyone they believe to be a threat. I mention this because of the accusations that Abu Qatada was arrested because he was a threat. After 11 September, the British government rushed through Parliament a Bill that created the Law allowing authorities to detain indefinitely any alien who the authorities feel pose a threat.

I request the Tribunal obtain clarification of the above law. I am unable to provide the information because I don't have access to it, but I am willing to assist the Tribunal in anyway I can. A handful of people were arrested under this law, including Abu Qatada. If Abu Qatada was a British citizen, none of this would not of happened and charges would not have been brought against me. If Jamil (ISN 905) and I were British citizens, none of this would have happened. This law was challenged in Britain and the European court ruled the law discriminated against foreigners.

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After my last Tribunal, I was taken to Camp Echo. In Camp Echo, I was isolated from all Detainees. I was provided with some paperwork, which I have included as exhibits. Among the information was a letter from my lawyer. In the letter, my lawyer strongly recommended I didn't participate in the Tribunal or talk to my Personal Representative. I find it coincidental the letter reached me two days after my Tribunal when it is dated 1 September.

Tribunal President: In regards to the letter, you have my word I had no idea that letter existed.

Detainee: I believe that.

Tribunal President: I can't speak for anyone else, but the three members of this Tribunal had no idea the letter existed.

Detainee: I am glad I appeared before the Tribunal. It may have been to my disadvantage if I had received the letter and taken my lawyers advice and not have participated. This letter went to the process that was 'Reviewed by the Privilege Team Member and forwarded', meaning they went through it thoroughly. My lawyer is going to have fun with this in court and with the media.

Tribunal member to Detainee: You realize, now that you have seen the letter, even though you talked to us before, you don't have to talk to us now.

Detainee: I fully understand. I told my lawyer I believe it is to my advantage to submit my further evidence. My lawyer gave me very little advice, he just said what I told you before was good.

Tribunal President: I know we told you; you may not be compelled to testify.

Detainee: I fully understand.

Tribunal President: You testified under Oath.

Detainee: I accept full responsibility for everything I have said here. I have no problems with the information I have told you.

Tribunal member: You did tell your lawyer you spoke to us last time?

Detainee: Yes.

Tribunal member: And that you were going to speak to us again?

Detainee: Yes.

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[Detainee continued statement]

My lawyer, whose information is available, is leading the way in the fight against this law. She can provide information on what is happening in the United Kingdom. She is also Abu Qatada's lawyer.

According to my other lawyer (who is also Jamil's lawyer) Mr. Mickham, Abu Qatada has not been charged. (I am charged for things Abu Qatada had done, yet he has not been charged.) Abu Qatada is in Britain, under arrest, but hasn't been charged with anything.

Abu Qatada has not been charged or interrogated. I have been interrogated at least sixty to seventy times. Abu Qatada has not appeared in or been convicted by any court. Jamil and I are still here held by accusations revolving around Abu Qatada.

Over the years, Abu Qatada received threats; his home and car were vandalized. Because of these threats, the British authorities offered to provide him protection. He declined the offer; he didn't want to be under continuous surveillance.

I would like to explain more about my relationship with Abu Qatada. I didn't see him everyday. Excluding the time I was helping him find an apartment, I saw him once a week or once every two weeks. On some occasions, a month would pass before I would see him. (I talked about the reasons I would see him at my last Tribunal). It is well known I had similar relationships with other scholars and preachers in London. I use to accompany one such individual to Hyde Park where he voiced his opinions against Iran. This person happened to be Iranian. I hated going to Hyde Park. Pro Iranians would swear and threaten us. It was a heck of a time. I hope in the next few months Iran doesn't become an ally with the United States, because you will see me again with new charges related to that relationship.

I have several friends, not all of which are fundamentalists. I have several non-Muslim friends. (I have not influenced any of the information I have submitted to this Tribunal except for the information I have written myself.) I am here because of my fundamentalist friends and Abu Qatada. I want you to understand I have a separate life from that. I have many friends and enjoy sports and other activities. I have biker friends also.

I would like to talk about the word Jihad (this is based on a question I was asked at the last Tribunal). Jihad is not an illegal word. The word is used in many places; including the United States. The people talking about Jihad are not being arrested or brought to GTMO.

When Jihad is mentioned about Saddam or Iran, it is good. When Jihad went against India to liberate Kashmir (whose people wanted independence from India) Britain supported the people of Kashmir until the eleventh of September. There was a Jihad in Chechnya, because the Chechens wanted their Independence from Russia. The communist took Chechnya over by force. Both of these conflicts were associated with

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the word terrorism, fundamentalism, and (inaudible). The problems in those two places were brushed to the side.

Britain has many groups including Neo Nazis whose activities are worth noting. Some of these groups are evil. For instance, the IRA has used violence and bombing attacks against Britain. If Abu Qatada was such a threat to Britain, why wasn't there a single terrorist incident related to his group or any other Muslim group? I am suppose to be in the middle of all this, so if it had happened I would have been informed by Abu Qatada or British Intelligence or something. Nothing had happened up to the day I left Britain.

I am participating in this Tribunal in an effort to clear my name. My lawyer assured me regardless of the outcome of this Tribunal I would be released. When I am released, I want to be classified as a non-enemy combatant, not as an enemy combatant.

I have been presenting my charges from different angles to try and prove my innocence. After thinking about it for a long time, all I can do is talk. If I could bring you information I would, unfortunately, I don't have the access. I would like to tell you the truth about MI5. I am not surprised the British government had nothing to say about my work. That is what I expected.

My lawyer is suing the President of the United States. I submitted my court papers and other related documents here today. I hope the information contained in my files will benefit me. I didn't submit everything only what I felt was relevant to this Tribunal. My case also involves two other individuals. I didn't include my friend Jamil's information. You may examine it, if you chose.

It is very interesting that my involvement with the British Intelligence does not appear anywhere except in one place in the Affidavit (Exhibit B, page 4, paragraph 9) from my brother's statement after his release from Gambia. In Gambia, I was not in touch with my brother. After a few days we were separated and the interrogations started. As my brother left Gambia, I got a glimpse of him through a small peephole. I was taught sometimes that small things have big meanings. I am hoping this paragraph is one of those times.

My brother said in his statement, "I tried to retain my humor and dignity throughout. I was asked by the Americans, if I was working for the British Secret Service?"

This is the only time British Intelligence is mentioned in any of the files.

Tribunal member: For the record, the Detainee is referring to Exhibit D-C, page 29 of 42, paragraph 9.

Detainee: That is the only place in the whole file that mentions British Intelligence. While being arrested in Gatwick airport and in Gambia, I kept my relationship with MI5 to myself. However, after two weeks and some trickery in Gambia, I was convinced to talk about it. Two Americans and two Gambians conducted the interrogations. I told the

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Americans the British Intelligence Agency knew where Abu Qatada was long before they did. One of the Americans had asked me if I worked for MI5. I told him I didn't work for them or anyone else. I am a free man. After a few days they put us in cells that were made from our own plywood. One evening I heard Jamil shouting and banging against the cell. This made me very uncomfortable; I didn't know what to do. I was afraid if I told Jamil to calm down, he would do the opposite. I didn't want to get involved; I was very stressed. They talked to Jamil through an interpreter and then they took him somewhere and then things quieted down. After a couple of minutes, someone had knocked on my door. I was asked if I was okay. The two Americans came into my cell and told me they received information that there was one or two people here working for British Intelligence. They wanted to know if it was myself or someone else. From that point on, we talked about things.

A few days ago during my lawyers visit, I told him of my relationship with MI5 and the things that have happened. I asked him not to reveal too much of the information to the outside world. Although this information would benefit me here, it would be a great disadvantage to my family and myself on the outside.

In support of my statement, why would an American official question someone (my brother) about British Intelligence? I believe I opened this door, only after I was tricked into doing so. You can read this in my file and in the unclassified evidence in this Tribunal. It is a big mess. For this to happen, the Americans must have put a lot of illegal pressure on people. The evidence the Tribunal has should indicate this.

My interrogations will reveal that my story hasn't change. If I were lying, I wouldn't remember what I told you and my story would change. Assuming I lied about MI5, why approximately one year ago did a young man from MI5 come talk to me? He asked me a few questions about a few people here in GTMO. He asked me if I were released, where would I like to go? I mentioned a few places; I told him he could buy me a ticket to the moon. He told me after my release there was no guarantee I could return to London. This conversation should prove I had previous contact with MI5. The young man from MI5 also visited Jamil. Jamil was asked where he would like to go after his release and he also mentioned the moon. I believe these conversations were recorded and there should be a record somewhere. [REDACTED] is the person from MI5 that I have met with on the most occasions. [REDACTED] would assure me that he wasn't here to interrogate me, but to say hello. If MI5 didn't know me, why would they stop by to say hello? During his visits, he would bring me things to eat and talked about the missed opportunity. I believed then and now it was an opportunity for the good of all. I am the one that lost out. I didn't want anything out of it, but it would have benefited British society. My meetings with MI5 always took place in public.

Tribunal President to Detainee: The British government didn't say they didn't have a relationship with you, they just would not confirm or deny it. That means I only have your word what happened. Also, you said there was a big missed opportunity, would you explain what that is.

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Detainee: After 11 September, there was a lot of tension. I was a person people listened to. My aim was to form a group with respected people from society. My goal was to reduce tension and resolve world problems. I told myself if I could achieve this, it would be a worthwhile accomplishment. I am not someone who tries to make people do things they don't want to do. I am not saying I achieved anything.

Tribunal President to Detainee: I am still trying to understand the missed opportunity. The missed opportunity was getting people together to talk?

Detainee: Yes. Resolve tensions and prevent situations from escalating.

Detainee continued: Six or seven months ago I received a visit from two agents, [REDACTED] and [REDACTED] from MI5.

[Detainee asked if someone was behind the window? The Tribunal President explained to the Detainee that someone was observing the Tribunal. The Detainee asked if the Tribunal was being monitored. The Tribunal President stated that it was not being monitored, just observed by someone who wanted to watch the process.]

Detainee continued: I believe from what [REDACTED] told me, [REDACTED] was the ranking individual. When they came, I wasn't shackled like now. I don't understand why I am shackled in here?

Tribunal President to Detainee: Your Personal Representative did ask if you could have your hands free. You are classified as an enemy combatant against the United States until we make a determination otherwise. I treat all enemy combatants fairly but the same. I won't allow anyone in here without the shackles. I am treating you like I treat everyone else. That was the decision I made. Not everyone is as nice as you, when we talk. For the safety of all, I treat everyone the same. I would not make an exception, even in your case.

Detainee continued: I told the MI5 agents it was nice to see them, because I thought my visitors were going to be Americans. We talked about business. I met with them once or twice more on the same visit. The issues I mentioned during my interrogations are things I don't talk about in public. These are issues no one knows about.

Tribunal President: Nor will they learn it from us.

Detainee: There is a strong trust between my friend Jamil and I. In London, I would assure him it was okay to help me. Jamil doesn't know anything about my work with MI5, nor does he need to.

As I was saying, I met with them once or twice on the same visit. I asked them whom were they coming to see? They told me they were here just to see me. We met on the next day and they told me they had asked the Americans to see one other British person.

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I had at least four meetings with the British Intelligence in this facility. It was not suitable then or now to tell the interrogators the whole story about MI5.

The British government told me they couldn't help me, because I am not British. I just want to reiterate I am not lying to you, what I have told you are the facts. I hope if you have any doubts, you can check them out. If I had lied then I am an enemy combatant. But if I have told the truth, please take that into consideration.

As you know, we were taken from Gambia to Kabul and then to Bagram Airbase. In Bagram, I provided information only after I was subjected to sleep deprivation, and various threats were made against me. I would like to state for the record, documents and letters from my lawyer, including those introduced today, were deliberately withheld from me until after the Tribunal, which was rushed.

[Detainee requested a copy of the unclassified summary (Exhibit R-1), so he could refer to it during his statement.]

[With regards to paragraph 3.a.3, (Abu Qatada has strong links to senior al Qaida operatives and facilitated the travel of individuals to an al Qaida guesthouse in Pakistan.)]

Detainee: If anyone planned to travel to Pakistan, I don't believe they would have told me about it. The people in GTMO are from many different countries. I can't believe Abu Qatada is an inspiration for all of them. Only a handful of people from the United Kingdom were brought to GTMO. Most of the people did not live in London. Abu Qatada is from London and he rarely left the city. No one is here because of Abu Qatada. There are people in GTMO that left the West, before 11 September, with their families for a new life in Afghanistan or Pakistan. I don't fully understand why they did it, and I am not convinced it was the right thing for them to do.

For the record I overheard someone, from my cellblock, say that he had moved his family from Britain before 11 September. I had learned he had prayed a few times with Abu Qatada. I don't believe there is anyway he would have left with his family, if he knew what was going to happen. If you want to fight Americans, you don't take your wife and children with you.

On more than one occasion, after MI5 questioned me, I would go out to the community to find the answers. On three or four separate occasions, the questions involved Abu Qatada (that was during the time I was supposedly harboring him). MI5 wanted to know about 11 September and what Abu Qatada thought about it. I had asked Abu Qatada his thoughts. He told me what had happened on 11 September was bad for the Islamic community because it would create problems and further alienate us. He concern was not because he liked the United States, but because of the reality of the world we live in, and what is good for him and his community. Abu Qatada always took responsibility for his actions. These are the qualities that I admired about Abu Qatada. I have not seen those qualities in anyone else.

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The next point is regarding the transfer of funds. The money was sent from London to Jordan. My mother is Jordanian and her mother lives there. My mother spends half of the year in Jordan taking care of her mother and the other time in London with me. If something suspicious happened I would think Intelligence would have questioned them about it. Nothing indicated to me, the transfer of the money was illegal, suspicious, or the threat to any country. The money was sent between two countries. The Jordanian authorities never questioned my mother about this and when I was arrested at Gatwick airport, no one questioned me about the money. I was interrogated for about eight hours, during which time I opted not to have a lawyer present since I had nothing to hide. Yet, after two years this allegation is brought up in the Tribunal. I sincerely hope what I am saying is clear. There is nothing to this allegation. I wonder, is the reason I am here because of these charges? Or, are these the things they decided to charge me with after they questioned me? This is the information I provided to them. Was this a formulated excuse after two years?

To collect the money after prayer, someone would shake (it encourages people to donate) the bucket. On occasion, when I was asked to collect the money, I enjoyed it. The money helped pay for the use of the hall, photocopies, parties, and presents for children. Our expenses were the same as any other community. Approximately four years ago a Jordanian traveled from Jordan to London for cancer treatment. An acquaintance of mine gave this individual my phone number. I was asked if I could help him, and I did all that I could. I would take him to his appointments and pay for his expenses out of my own pocket. I mentioned this individual's situation to Abu Qatada, and he arranged through his charity to pay the hospital expenses (about \$40,000.00). The expenses were a little more than what the charity covered and Abu Qatada made up the difference. This was the Abu Qatada I knew. MI5 mentioned Abu Qatada had received money from different sources. I don't know nor was I involved in that.

I offered to help those I have known and those I don't. If I noticed someone stranded on the highway, I would stop and offer my assistance. Two days before my trip to Gambia, I helped my elderly neighbors trim some trees on their property.

The papers I introduced to the Tribunal talked about my brother's business in Gambia. My brother spoke to the authorities in Gambia and registered his company. Everything he did was legal; he had the proper documentation. If the Tribunal has any questions about my brother's business, especially regarding the finances, I am certain my family can provide that information.

If we had intended to do harm in Gambia, then it was unwise for the Gambian authorities to let two members (Omar and my brother) of the group go. If the idea was raised we went there to do harm, then why didn't they detain us and take us to court in Gambia?

I have never heard Abu Qatada encourage anyone to go to Pakistan or Afghanistan. His opinion at the time was that the Jihad between the Taliban and the Northern Alliance was between two Afghani groups, why should Arabs get involved? In terms of a religious explanation, when war is between two Muslim fascists it is not obligatory for a third

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party to get involved. Others and I had hoped something good would have resulted from Afghanistan and the government. We somehow knew the situation was a failed venture.

I mentioned the word harbor to my lawyer. I truly don't believe I harbored Abu Qatada. If Abu Qatada had ties to al Qaida, I was unaware of it.

I would like to raise some questions. I don't think these questions will help my case but I hope things will be looked at in a better way. What groups of people have the right of freedom over others? What are the principles we should have in deciding these matters? Russia, after the fall of the Soviet Union, gave several states their independence. Georgia was among them. Chechnya, which is next to Georgia, didn't get its independence from Russia. They fought for it and people died, yet they didn't get their independence. I wonder why? There were many promises made. Why is it we can say this war is legitimate, and this war isn't? I wonder how many faces in today's Russian politics are the same faces we saw from the time of the Soviet Union? These people were evil because of the things they did. However, once the Soviet Union collapsed, Putin whose job was head of the Secret Service became their President. He is the one who is respected and whose opinion counts. What has changed these individuals? Maybe it was a miraculous transformation? Maybe they have become Saints, or maybe they are the same people as before? Why is it when an Island like East Seymour wanted its independence, they received it in a year? Thousands of people were butchered, yet Putin turned a blind eye to it. Why didn't the Palestinians want dignity in the land of their fathers and ancestors where they were fired upon and killed? To be fair, they did cast the first stones. Why is it some people get freedom and others don't? Why is it when some people want to fight for their freedom, they are labeled as terrorists? Why is it America fought for its freedom? Why is it America tells some people they cannot fight for their freedom? America paid a very high price for its freedom. Freedom is the highest thing one can achieve in this world.

Again for the record, things I have said here are relevant to the case of my friend Jamil (905). One of the accusations against him was that he took Abu Qatadas family to Abu Qatada. Jamil did that because I had asked him to. I assured him it was okay based on what I thought I knew at the time.

Another of his accusations regarded a battery charger. This was the battery charger that I mentioned the last time we met. The battery charger belonged to me. I modified it, and I take full responsibility for it.

I hope and pray what I have told you will help clear Jamil and me. Thank you very much.

Tribunal President to Detainee: I would like to address your two new witness requests: one is that we get a statement from your lawyer concerning laws by which Abu Qatada was arrested. That is not relevant to this Tribunal, so that is denied. The second request was to get statements from the officials in Gambia. We are not going to do that for this Tribunal.

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Detainee: With regards to the statement "Abu Qatada is a known al Qaida operative who was arrested in the United Kingdom and is a danger to national security." I feel it is important to the Tribunal to understand why he was arrested. I feel it is extremely important you have an understanding regarding his arrest.

Tribunal President: I won't ask for that information from your lawyer, I have asked for that information through other channels. I was curious about that and I do believe we have some additional information. That was requested and I should have told you that. I understand your concerns.

Detainee: That is fine, thank you.

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.

Tribunal President

ISN #906
Enclosure (3)
Page 27 of 27

UNCLASSIFIED / FOUO

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~~SECRET~~

24-11-2004

3.a.1 In Britain the country I was living in just before my travelling to Africa and my subsequent kidnaping did not classify Abu Qatada as AlQaida, and my determination of that is through my contacts with officials there. That was during meetings they had with him during which I was present and I translated between the two. During those meetings (this was few years ago), I put out the question whether it is O.K. to have, and continue to have a relationship with ~~Abu~~ Abu Qatada the answer was always yes. During that time and throughout my 18 years in Britain I hardly had any negative contact the police and the court. ~~to report on~~

Note *
 please clarify the meaning
 narrow, so I can specify
 reply to it.??

I had no indication what so ever the Abu Qatada is someone who has contact with AlQaida. The word AlQaida I only learned of after 11-9. Abu Qatada my friend for few years was not wanted he was free ~~and living his life normally~~ when I helped him find a flat to stay in.

Note *

3.a.2 This The British authorities new of my assistance to Abu Qatada and they were aware of it. # and it was to their advantage.

3.a.3 What Abu Qatada knew or did not know, was and continues to be his business. I was not aware of his alleged activities nor did I participate in it in any way whatsoever. I would like to point out here that whatever help or assistance I offered to Abu Qatada were day to day things and needs that in no way will be considered to be illegal in Britain or in any other place in the world, and does not threaten any individual or country. (eg of my assistance if you want). I myself have never traveled to Pakistan or Afghanistan "that is until US persons kidnaped me and put me on a flight to Afghanistan"

3.a.4 Being that Abu Qatada was arrested in Britain for whatever purpose. Allegedly a threat to national security and here for argument sake I will accept this now I was in Britain living there ~~for~~ before during and after his arrest. Known to the authorities there not hiding from them, they know my address and everything else to know. They did not arrest me - Britain is the number 1 (almost) ally to the US and those interests are highly interested and I know that very well. ^{Dispute}

also there are many people who know Abu Qatada who have not been arrested by the new Abu Qatada.

3.a.5 Yes I transferred funds those funds went from London to Jordan. To Abu Qutadah father, coincidentally Abu Qutadah's father was questioned by the Jordanian intelligence agency (and I am sure you know that they are a bit more persuasive than you). And nothing came out of that. These funds go to poor families in Jordan special during our festive season. I will always be ready to offer my assistance to the poor and needy what ever religion or ~~sect~~ race. And during my life in Britain I always exercised this. The reality today show that that part of world is poor and the flow of funds from the first world to the third world should be encouraged and not hindered. ~~As a result~~ I sometimes say that the transfer was directed by Abu Qutadah to me. Now I do not work for him nor am I his follower. When that happened he politely asked me as a friend, when I did I did it legally under my own name (not a presumed one) with the proper paperwork.

It is very important for you to fully understand that I did not participate in any illegal activity what so ever

Note:

* The new law which was brought out after the 11-9 is then and now being challenged in British courts and in the European courts.

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NOTE: It is unfortunate that I only had some two hours to read
understand and may be try and defend my self in.

3. a. 6 It is very important for this Tribunal to understand
the process (which my lawyer describe as an Odeal)
and maybe you would prefer it to be called - a
legal process. ~~Now~~ ^{Now} let me tell you truthfully! If
you accept that there are some detainees who say the
truth we - (my self my Brother, 905 and a friend)
go off the plain approached the ~~the~~ immigration officer
he held on to our travel documents did not say
a word pointed to ^{stand} the side again with out saying
a word. We were taken to an ordinary room
in the Airport And though out they were saying
that there is no problem this is just routine
AND this game ^{was played} by all the officials there
"including us when we meet the very next Day"
The way things happened in Gambia is just like a
Criminal Gang would operate (that from TV not
experience).
As being "then Transferred to us custody"
were the us officials were running the show in
gambia -
Trivial matters like some of our things were
~~stolen~~ Stolen some of our money convincingly taken
the Material we exported to gambia to start the
factory was used to build cells for us. not 00918
giving us Adequate food nor ~~big~~ hygiene standards (var.

Our ref: GP/pk

Your ref:

Birnberg Peirce & Partners

Solicitors

14 Inverness Street
London NW1 7HJ
Telephone: 020 7911 0166
DX 57059 Camden Town
Fax: 020 7911 0170

Immigration Dept Fax: 020 7692 0173
Email: [name]@birnbergpeirce.co.uk

Bisher Al Rawl
Guantanamo Bay
Cuba

16 August 2004

Dear Bisher,

I am writing to introduce you to Brent Mickum (of the law firm Keller and Heckman LLP) who has obtained clearance to visit you as an independent lawyer to advise you. The conditions under which he is allowed to visit you are far from ideal. Any documents that he takes to the visit, including this letter, are subject to scrutiny by the authorities at Guantanamo Bay. This process is of course objectionable, and Brent Mickum is complying with it because, using the best judgement we can, it is of urgent importance that you see an outside and independent person who has your interests at heart, when you have been allowed no such contact for the past more than one and a half years.

I write this letter to reassure you that Brent Mickum is part of a legal team in the United States, who is acting with the blessing and on the instructions of your family and of me on behalf of your family. I set out something of the history of instruction of lawyers and actions on your behalf of which you may be completely unaware.

Immediately after you were unlawfully detained in the Gambia, your family initiated legal action on your behalf there. However, after 28 days, and after Wahab had returned to England, your family were informed that you were in Bagram Airbase in Afghanistan. For the next year and a half, acting on your family's instructions, and jointly with them, I have instructed lawyers in America to assist in attempts to achieve your release from unlawful detention, in particular, after we learned that you had been moved to Guantanamo Bay. Since that time we have instructed lawyers in America to bring all possible proceedings on your behalf that could challenge the legality of your detention, including a petition to the Inter-American Committee for Human Rights which made strong recommendations in respect of the detention without trial of detainees in Guantanamo.

I instructed the Centre for Constitutional Rights in New York on your behalf to commence a challenge in the US courts. (They had already initiated *habeas corpus*

Partners
Gareth Peirce
Therese Brennan
Nigel Lindsay

Practice Manager
Richard Brown

Office Manager
Suzanne Upson

Solicitors
Rachael Desjacht
Daniel Casabella
Alastair Lyon
E. Louise Miller
Leanne Numbard

Marcia Willis Stewart
Hester Wierlich
Sarah Woodhouse
Helen Zohar

Immigration Caseworkers
Irfan Cengiz
Liz Farrell
Penny Gaudex



Specialist Help Point

The firm is regulated by the Law Society in the conduct of investment business

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Exhibit D-C

proceedings in the courts in America in early 2002 on behalf of two other British residents, Shafiq Rasul and Asif Iqbal, from Tipton in the West Midlands, who had been detained in Guantanamo Bay since early 2002.) Their case finally reached the Supreme Court in April of this year, and judgement was given on 28th June 2004, finding that the United States Government had been wrong to argue as it had in the lower courts, that Guantanamo Bay was not subject to the supervisory jurisdiction of the US courts. (I instructed the lawyers at the Centre for Constitutional Rights to join your own case in that action, and that occurred. The case was decided in the name of *Shafiq Rasul and Others v George Bush and Others*; the case was considerably advanced at the stage that your case was joined to it, and was heard in April 2004 by the Supreme Court. The findings affect all detainees at Guantanamo Bay.)

It is thus that you have now come to meet Brent Mickum. He is an attorney in Washington, and following the Supreme Court case, his firm agreed to act with the Centre for Constitutional Rights to achieve a resolution of your position. Brent Mickum will undoubtedly discuss with you further our own view in relation to the tribunals and the process under which you are held. That view is strongly held; that it is a process that does not comply in any way with any minimum international norms of basic human rights and due process. This view is shared by members of the government in this country including the Attorney General, Lord Goldsmith, who have stated publicly that the proposed military tribunals do not constitute a fair procedure that the United Kingdom can acknowledge as adequate.

We have been trying continuously for a year and a half to ensure that the United Kingdom recognizes its responsibility towards you and your family and agrees that the appropriate country to which you should be returned is this. We do not at present have that reassurance, but are seeking to bring proceedings here if that responsibility is not acknowledged.

We hope that by now, the beginning of the end of your ordeal has been achieved. It has been a great privilege for the past one and a half years, although one that has been extremely distressing and frustrating, to have worked with your family who have been tireless in campaigning for your release.

We wish to emphasise that the whole process under which you were unlawfully kidnapped in the Gambia, i.e. subject to no lawful process of arrest, detention, deportation or extradition, contaminates in law the whole process that has followed thereafter, even had that process been, as it so clearly has not, a process that accorded with international minimum obligations. We have absolutely no doubt, having interviewed in detail some of those who have returned to the United Kingdom from Guantanamo Bay, and who were in US detention in Afghanistan, that you had been subjected to an unimaginable ordeal. Nothing in that process could possibly stand the scrutiny of a proper and independent court. In the absence of that, nothing lesser should be substituted nor agreed with.

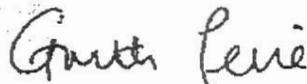
We shall continue to act on your behalf and on behalf of your family, in every way that is possible until you are safely back here and with your family once again. Those actions are taken in cooperation with colleagues in the United States and it is thus I introduce Brent Mickum to you and to confirm that it is with the knowledge and blessing

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of your family here. I enclose a copy of a letter from your sister confirming that instruction which has in fact been on going for the past year and a half. That letter is included with this in order that you be reassured that Brent Mickum is introduced to you through ourselves.

We hope that your days in Guantanamo Bay are numbered, and are fast drawing to an end. We have considered it important that Brent Mickum, the first lawyer of the team to obtain clearance, comes to see you at the earliest opportunity. Whilst there may be restrictions upon what Brent Mickum is able to say as a result of the wholly wrong, in our view, conditions under which he is obliged to see you, we hope nevertheless that you will find the meeting of benefit. I look forward to seeing you at the earliest possible opportunity.

Yours sincerely,



Gareth Peirce
Birnberg Peirce & Partners

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1001 G STREET, N. W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TEL. 202.434.4100
FAX 202.434.4646
WWW.KHLAW.COM

WRITER'S DIRECT ACCESS

George Brent Mickum
(202) 434-4245
Mickum@khlaw.com

August 12, 2004

TO: Bisher Al-Rawi
Camp Delta
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

Dear Bisher:

We are civilian United States lawyers who are voluntarily working on your behalf. We are writing to inform you that your family, your English solicitor Gareth Pierce, and the Center for Constitutional Rights in the United States have asked us to file a legal case in the civilian courts in the United States for you. Your family contacted Gareth Pierce, the well-known U.K. solicitor, to challenge the lawfulness of your detention. They, in turn, contacted Clive Stafford Smith, who is originally from Britain and has spent the last twenty years working on behalf of people on death row in the southern United States. We have been asked to do everything we can to help secure your legal rights.

We filed a legal case (a habeas corpus challenge) for you on July 6, 2004 in the United States federal court in Washington, D.C. It challenges your classification as an alleged "enemy combatant" and the lawfulness of your detention under the United States Constitution, laws, and treaties as well as international law. Your case is currently pending in the U.S. civilian court and we are pressing forward with it as fast as we can.

We are your civilian United States lawyers. We have no connection to the U.S. military. We will continue to communicate with you about your legal case in the future.

We are making arrangements with the Government to travel to Guantanamo in the near future. We look forward to meeting you.

Sincerely,
Keller and Heckman LLP



George Brent Mickum IV
Douglas J. Behr

WASHINGTON, D.C.

BRUSSELS

SAN FRANCISCO

000922

APPROVED BY
US FORCES



SEP 28 2004

JTF/ JDOG S-2
GUANTANAMO BAY, CUBA

My dearest Bisher

20-09-04

You have been far for very long time and I miss you very much. No news from you for a long time nearly a year. Although I and your sister wrote ten letters to you but no reply. I and your sister went to the Red Cross and I asked them why there is no reply, they said some letters are still with the Americans and are being censored. We said we are worried about you and after few months they replied that they met you and you are fine but did not want to write. This made me very worried.

I am not used to be far from you and I always remember your happy child hood and how we used to spend all our time together and I how I brought you up. All this is gone within few seconds. But thank God there are still some good people from all over the world the UK and other places who have humanity.

Gareth Pierce contacted us and told us that the American lawyer called Mr. George Brent Mickum will come to see you in Guantanamo Bay and God willing he is going to help you and defend you. Please do not accept any lawyer from the military court because he will be the judge and the jury. So you know Iraq is occupied and there is a war there and it is very unsafe to live there and I explained Mr. Mickum to explain to you.

I did send a letter to Alya because you asked me to do so but she did not reply. Please discuss with your lawyer as to which country is safe for you to return after you get a letter from the American confirming your innocence.

We tried with the British Govt and met Jack Straw (Foreign Secretary) to help us to bring you back home to UK because all the family is British and we have lived here for 20 years. They said you did not apply for the British passport therefore you are not a British citizen. The oppression that happened to you without any reason. I pray for all of us to be wise and patient and should ask God to help us.

May God help you to be released soon and choose the right country for you? My dearest son Bisher I am sending this letter to you through your lawyer and waiting for your reply. Can you give the letter to Mr. Mickum? Everyone here miss you very much.

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Exhibit D-E

Detainee - Attorney materials

Reviewed by Privilege Team member and forwarded

[REDACTED]

Deputy Admiralty Counsel
Office of the Judge Advocate General
Admiralty and Maritime Law Division (Code 11)

1322 Patterson Ave., SE, Ste 3000
Washington Navy Yard, DC 20374-5066

Direct dial: [REDACTED]

Fax: [REDACTED]

E-mail: [REDACTED]

000924

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1001 G STREET, N. W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TEL. 202.434.4100
FAX 202.434.4846
WWW.KHLAW.COM

September 1, 2004

WRITER'S DIRECT ACCESS

TO: Bisher Al-Rawi
Camp Delta
Guantanamo Bay Naval Station
Guantanamo Bay, Cuba

George Brent Mickum IV
(202) 434-4245
mickum@khlaw.com

Dear Bisher:

By now, we hope you have received letters from your family and from your English solicitor, Gareth Peirce, introducing us as your United States lawyers. You also should have received a copy of the Petition for the Writ of Habeas Corpus that we filed on behalf of you, Bisher Al-Rawi, and Martin Mubanga. Please tell officials at Guantanamo that you want to write to your attorneys. When you write, let us know what materials you have received. You may reach us at the following address:

George Brent Mickum, Esq.
Douglas J. Behr, Esq.
Keller and Heckman LLP
1001 G. Street, N.W., Suite 500W
Washington, D.C. 20001

We were scheduled to meet with you during the week of August 30. Unfortunately, that trip was canceled because of disagreements over restrictions the military wanted to impose.

As you may know, you have been offered an opportunity by the military to appear before a military tribunal that will decide whether you are an "enemy combatant" against the United States. **We strongly recommend that you do not participate in this proceeding. We also strongly recommend that you do not talk to the "Personal Representative" appointed to assist you.** Among other things, the Personal Representative can be compelled to provide testimony against you. If you have any questions, please write to us immediately

Again let us stress: We are civilian lawyers. **We are not connected to the U.S. military or to the U.S. Government.** We hope to meet with you within the next several weeks to talk with you about your case. Please feel free to write to us. However, be aware that the military authorities may read any mail sent to us.

KELLER AND HECKMAN LLP

We look forward to meeting you.

Sincerely,
Keller and Heckman LLP



George Brent Mickum IV
Douglas J. Behr

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violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL DEPRIVATION OF LIBERTY)

51. Petitioners expressly incorporate paragraphs 1 - 50 by reference.
52. By the actions described above, Respondents, acting under color of law, have violated and continue to violate customary international law, [REDACTED]
[REDACTED]
[REDACTED]. President Bush has ordered the prolonged, indefinite, and arbitrary detention of 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 President's Military Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL CONDITIONS OF CONFINEMENT)

53. Petitioners incorporate paragraphs 1 - 52 by reference.
54. 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, [REDACTED]
[REDACTED]
[REDACTED]. The President's Military Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT – TORTURE)

55. Petitioners incorporate paragraphs 1 - 54 by reference.
56. The acts described herein were inflicted deliberately and intentionally for purposes of punishing and intimidating the detained Petitioners.

66. The acts described herein constitute arbitrary arrest and detention of Petitioners in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
67. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to bring about the arbitrary arrest detention of the detained Petitioners.
68. As result of Respondents' unlawful conduct, the detained Petitioners were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse, and are entitled to monetary damages and other relief to be determined at trial.

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

69. Petitioners incorporate paragraphs 1 - 68 by reference.
70. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons seized by the United States Military in times of armed conflict, as established by, *inter alia*, the regulations of the United States Military, [REDACTED], and customary international law.

NINTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

71. Petitioners incorporate paragraphs 1 - 70 by reference.
72. 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.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMIL EL-BANNA,)
 Detainee, Camp Delta)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba;)
SABAH SUNNRQROUT,)
 as Next Friend of Jamil El-Banna;)
BISHER AL-RAWI,)
 Detainee, Camp Delta)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba;)
JAHIDA SAYYADI,)
 as Next Friend of Bisher Al-Rawi;)
MARTIN MUBANGA,)
 Detainee, Camp Delta)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba; and)
KATHLEEN MUBANGA)
 As Next Friend of Martin Mubanga;)
Petitioners,)
v.)
GEORGE W. 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;)

CASE NO. 1:04-CV-01144 (RWR)

Judge Richard W. Roberts

FIRST AMENDED
PETITION FOR WRIT
OF *HABEAS CORPUS*

000929

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Exhibit D-14

ARMY BRIG. GEN. JAY HOOD,)
 Commander, Joint Task Force - GTMO)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba; and)
)
 ARMY COL. NELSON J. CANNON,)
 Commander, Camp Delta,)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba,)
)
Respondents.)
)

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioners Bisher Al-Rawi (“Al-Rawi”), Jamil El-Banna (“El-Banna”), and Martin Mubanga (“Mubanga”) seek a Writ of *Habeas Corpus*. They act on their own behalf and through their Next Friends, Ms. Jahida Sayyadi, the mother of Bisher Al-Rawi; Ms. Sabah Sunnrqout, the wife of Jamil El-Banna; and Kathleen Mubanga, the sister of Martin Mubanga.
2. Petitioner Al-Rawi is an Iraqi citizen and a permanent resident of the United Kingdom. Petitioner El-Banna is Palestinian and a permanent resident of the United Kingdom. Petitioner Mubanga is a dual citizen of the United Kingdom and The Republic of Zambia (“Zambia”). Petitioners Al-Rawi, El-Banna, and Mubanga (collectively the “detained Petitioners”) are being held virtually *incommunicado* in Respondents’ unlawful custody at Camp Delta, Guantánamo Bay Naval Station, Guantánamo Bay, Cuba (“Guantánamo”).
3. Pursuant to the President’s authority as Commander-in-Chief and/or under the laws and usages of war and/or the November 13, 2001 Military Order, Respondents George W. Bush, President of the United States, Donald H. Rumsfeld, U.S. Secretary of Defense, Army Brigadier General Jay Hood, Commander of Joint Task Force-GTMO, and Army Colonel Nelson J. Cannon, Commander, Camp Delta, Guantánamo Bay Naval Station, Cuba, are either ultimately responsible for or have been charged with the responsibility of maintaining the custody and control of the detained Petitioners at Guantánamo.

**I.
JURISDICTION**

4. Petitioners bring this action under 28 U.S.C. §§ 2241 and 2242, and invoke this Court's jurisdiction under 28 U.S.C. §§ 1331, 1350, 1651, 2201, and 2202; 5 U.S.C. § 702; as well as the Fifth, Sixth, and Eighth 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. Because they seek declaratory relief, Petitioners also rely on Fed. R. Civ. P. 57.
5. This Court is empowered under 28 U.S.C. § 2241 to grant this Writ of Habeas Corpus, and to consider the Petition filed by Sabah Sunnrqrout, Jahida Sayyadi, and Kathleen Mubanga as Next Friends under 28 U.S.C. § 2242. This Court is further empowered to declare the rights and other legal relations of the parties herein under 28 U.S.C. § 2201, and to effectuate and enforce declaratory relief by all necessary and proper means under 28 U.S.C. § 2202, as this case involves an actual controversy within the Court's jurisdiction.

**II.
PARTIES**

6. Petitioner Bisher Al-Rawi is an Iraqi citizen and a permanent resident of the United Kingdom who presently is incarcerated and held in Respondents' unlawful custody at Camp Delta, Guantánamo. *See* Exhibit A at ¶ 2. Affidavit of Jahida Sayyadi and attachments thereto ("Sayyadi Affidavit"), incorporated by reference herein.
7. Petitioner Jahida Sayyadi is Petitioner Al-Rawi's mother. Ms. Sayyadi is a British citizen. Because her son has been denied access to legal counsel and to the courts of the United States, Jahida Sayyadi acts as his Next Friend. *See* Sayyadi Affidavit, Exhibit A, at ¶ 7. On her own and through British Counsel, Gareth Peirce ("British Counsel"), Jahida Sayyadi repeatedly has tried to contact her son to learn more about his condition and status and to gain access to him. British authorities have rebuffed or ignored Ms. Sayyadi's and British Counsel's requests. *See id.* at ¶¶ 5, 6. The United States has refused to provide any information to Ms. Sayyadi or to British Counsel regarding the date and circumstances of Petitioner Al-Rawi's arrest or the

specific reasons for his continued detention at Guantánamo. *See* Exhibit B at ¶ ____, Affidavit of Gareth Peirce, British Counsel for Petitioner Al-Rawi and attachments thereto (“Peirce Al-Rawi Affidavit”), incorporated by reference herein; Sayyadi Affidavit, Exhibit A, at ¶¶ 5, 6.

8. Petitioner Jamil El-Banna is a Palestinian and a permanent resident of the United Kingdom who presently is incarcerated and held in Respondents’ unlawful custody at Camp Delta, Guantánamo. *See* Exhibit C at ¶ 7, Affidavit of Sabah Sunnrqrou and attachments exhibited thereto (“Sunnrqrou Affidavit”), incorporated by reference herein. Petitioner Sabah Sunnrqrou is Petitioner El Banna’s wife. Because her husband has been denied access to legal counsel and to the courts of the United States, Sabah Sunnrqrou acts as his Next Friend. *See* Sunnrqrou Affidavit, Exhibit C, at ¶ 8. Through British Counsel, Sabah Sunnrqrou repeatedly has tried to contact her husband, to learn more about his condition and status and to gain access to him. Both the U.S. and the British Authorities have rebuffed or ignored counsel’s requests. *See* Exhibit D at ¶¶ 17-27, Affidavit of Gareth Peirce, British Counsel for Petitioners El-Banna and Sabah Sunnrqrou, and attachments thereto (“Peirce El-Banna Affidavit”), incorporated by reference; Sunnrqrou Affidavit, Exhibit C, at ¶¶ 4, 7 and 8. The United States has provided no information to Ms. Sunnrqrou or to British Counsel regarding the date and circumstances of Petitioner El-Banna’s arrest or the specific reasons for his continued detention at Guantánamo. *See* Sunnrqrou Affidavit, Exhibit C, at ¶ 4.
9. Petitioner Martin Mubanga is a dual citizen of the United Kingdom and Zambia who is presently incarcerated and held in Respondents’ unlawful custody at Camp Delta, Guantánamo. *See* Exhibit E at ¶ 4 & Attachment KM4, Affidavit of Kathleen Mubanga and attachments thereto (“Mubanga Affidavit”), incorporated by reference herein.
10. Petitioner Kathleen Mubanga is Petitioner Martin Mubanga’s sister. Ms. Mubanga is a British citizen who has lived in the United Kingdom since 1976. *See* Mubanga Affidavit, Exhibit E at ¶ 1. Because her brother has been denied access to legal counsel and to the courts of the United States, Kathleen Mubanga acts as his Next Friend. *See* Mubanga Affidavit, Exhibit E, at ¶ 6. On her own and through British Counsel, Louise Christian (“British Counsel”), Mubanga has tried to contact her brother to learn more about his condition and status and to gain access to

him. British authorities have rebuffed or ignored Ms. Mubanga's and British Counsel's requests. *See id.* at ¶¶ 5, 6. Other than the British Government's confirmation that Mubanga was seized in Zambia, the British Government and the United States have refused to provide any information to Ms. Mubanga regarding the date and circumstances of Petitioner Mubanga's arrest or the specific reasons for his continued detention at Guantánamo. *See* Mubanga Affidavit, Exhibit E, at ¶ 6.

11. Respondent George W. Bush ("President Bush") is the President of the United States and Commander-in-Chief of the United States Military. Petitioners El-Banna, Al-Rawi, and Mubanga are being detained pursuant to President Bush's authority as Commander-in-Chief and under the laws and usages of war or, alternatively, pursuant to the Military Order promulgated on November 13, 2001. Accordingly, President Bush is responsible for Petitioners' unlawful detention. He is sued in his official capacity.
12. Respondent Donald Rumsfeld ("Respondent Rumsfeld") is the Secretary of the United States Department of Defense. Pursuant to the November 13, 2001 Military 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 his official capacity.
13. Respondent Brigadier Gen. Jay Hood ("Respondent Hood") is the Commander of Joint Task Force-GTMO, the task force running the detention operation at Guantánamo. He has supervisory responsibility for the detained Petitioners and is sued in his official and individual capacities.
14. Respondent Col. Nelson J. Cannon is the Commander of Camp Delta, the U.S. facility where the detained Petitioners are presently held. He is the immediate custodian responsible for their detention, and is sued in his official and individual capacities.

III. STATEMENT OF FACTS

15. The detained Petitioners are not, nor have they ever been, enemy aliens, lawful or unlawful belligerents, or combatants of any kind.

16. 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 were engaged in an armed conflict against the United States there." See *Hamdi v. Rumsfeld*, 542 U.S. ___, slip op. at 8-9 (June 28, 2004).
17. Petitioners seek to enforce their right to a judicial determination that there is a factual basis for Respondents' determination that they are "enemy combatants."
18. The Republic of The Gambia is a republic located in West Africa, surrounded by Senegal on three sides and the Atlantic Ocean. The Gambia was colonized by Britain and gained its independence on February 18, 1965. The Gambia is a member of the British Commonwealth of Nations. The Gambia's most recent elections were deemed free and fair by international observers. Extradition from The Gambia to the United States is controlled by the Extradition Treaty between the United States and the United Kingdom signed on December 22, 1931. The Gambia and the United States are at peace.
19. On or about November 8, 2002, Petitioner Al-Rawi departed the U.K. for The Gambia in order to meet his brother and commence work on a joint business project involving the establishment of a peanut oil processing plant there. See Sayyadi Affidavit, Exhibit A, at ¶ 4. The project had received approval from the Gambian government and had been registered with Gambian authorities. Accompanying him was Petitioner El-Banna and another two colleagues involved in the same business project. After arriving at Banjul Airport in The Gambia, the three travelers and Petitioner Al-Rawi's brother, Wahab, who was present to meet them, were all detained by the Gambian authorities. The four men were initially questioned by the Gambian National Intelligence Agency and later, on information and belief, by representatives of the United States (either the Central Intelligence Agency or military intelligence). On information and belief, the interrogation of petitioners involved "stress and duress" techniques at the direction of the representatives of the United States and in violation of international law. After being detained for nearly a month, two of the four men, each of whom had a British passport, were released but Petitioners Al-Rawi and El-Banna remained in Gambian detention. See Peirce Al-Rawi Affidavit, Exhibit B, at ¶ 5.

20. In early 2003, British Counsel for Petitioners was advised that Petitioners Al-Rawi and El-Banna had been secretly transferred from The Gambia to the U.S. Air Force Base in Bagram, Afghanistan. *See* Peirce Al-Rawi Affidavit, Exhibit B, at ¶ 23. On information and belief, Petitioners were transferred from The Gambia to Afghanistan in custody of the United States. Their transfer took place while a *habeas corpus* petition filed on their behalf was pending before the courts in the United Kingdom.
21. Sometime in 2003, Petitioner Al-Rawi's family was made aware that he had been transferred to Guantánamo along with Petitioner El-Banna. *See id* at ¶ 24. Petitioners have been held in U.S. custody at Guantánamo since that time.
22. At the time of his detention, Petitioner Al-Rawi was not a member of either the Taliban government's armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his detention. Petitioner Al-Rawi was not in Afghanistan at the time of his detention. He was taken into custody in The Gambia, turned over to the custody of the U.S. Military there, transported illegally to Afghanistan, and thereafter illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.
23. On November 8, 2002, Petitioner El-Banna departed the United Kingdom for The Gambia in order to meet several business associates regarding the establishment of a peanut oil processing factory there. Accompanying him were Petitioner Al-Rawi and Abdullah El Janoudi, both of whom were involved in the same business project. Upon his arrival in Gambia, Petitioner El-Banna and his three business associates, including Wahab Al-Rawi, who was present to meet them, were all detained by Gambian authorities. *See* Sunnrqrout Affidavit, Exhibit C, at ¶ 4; Peirce El-Banna Affidavit, Exhibit D, at ¶ 5. After being detained for nearly a month, Wahab Al-Rawi and another business associate, both British citizens, were released; Petitioner El-Banna, however, remained in detention in The Gambia along with one of his business associates, Petitioner Al-Rawi. *See* Peirce El-Banna Affidavit, Exhibit D, at ¶ 5.
24. In early 2003, British Counsel for Petitioners El-Banna and Al-Rawi was advised that the detained Petitioners had been secretly transferred from The Gambia to the U.S. Air Force Base

- in Bagram, Afghanistan. *See* Peirce El-Banna Affidavit, Exhibit D, at ¶ 23. Some time in 2003, Petitioner El-Banna's family was made aware that he had been transferred to Guantánamo. *See* Sunnrqrou Affidavit, Exhibit C, at ¶ 4. Petitioner El-Banna has been held in U.S. custody at Guantánamo since that time. *See* Peirce El-Banna Affidavit, Exhibit D, at ¶ 24.
25. At the time of his detention, Petitioner El-Banna was not a member of either the Taliban government armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. El-Banna was not in Afghanistan at the time of his detention, but was taken into custody in The Gambia, turned over to the custody of the U.S. Military there, illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.
26. The Republic of Zambia is located Africa and governed by a president and a unicameral national assembly. Zambia is a member of the British Commonwealth of Nations. Extradition from Zambia to the United States is controlled by the Extradition Treaty between the United States and the United Kingdom signed on December 22, 1931. Zambia and the United States are at peace.
27. In October 2000, Petitioner Mubanga left the United Kingdom to travel to Pakistan to visit friends and attend an Islamic school. While in Pakistan, Petitioner Mubanga lost his British passport. *See* Mubanga Affidavit, Exhibit E, at Attachment KM4, at ¶ 1, 2. In early 2002, Petitioner Mubanga traveled to Zambia, using his Zambian passport to visit his sister, Constance Mubanga. *See* Mubanga Affidavit, Exhibit E, at ¶ 6, Attachment KM4, ¶ 2. While in Zambia, Petitioner Mubanga and his sister became aware of a news report that claimed that a person named "Martin Mubanga" had been captured in Afghanistan. They feared that someone was using Petitioner Mubanga's passport. *See* Mubanga Affidavit, Exhibit E at ¶ ____, at Attachment KM, ¶ 2. Shortly thereafter, Zambian officials seized and jailed both Petitioner Mubanga and his sister on false charges of motor vehicle theft. *See* Mubanga Affidavit, Exhibit E, at Attachment KM, ¶ 5. After holding Constance Mubanga in custody for several weeks, Zambian authorities returned her to the United Kingdom. *See* Mubanga Affidavit,

Exhibit E, at Attachment KM, ¶ 7, 9. On information and belief, the Zambian government turned Mr. Mubanga over to the United States government without due process and in violation of the laws of Zambia including, but not limited to, the extradition treaty with the United States. On further information and belief, Mr. Mubanga was transported by the United States government to Guantánamo from Zambia against his will and without his consent. In April 2002, Petitioner Mubanga's family discovered that the United States was holding Petitioner Mubanga in Guantánamo. *See* Mubanga Affidavit, Exhibit E, at ¶ 4.

28. Petitioner Mubanga has never been a member of the Taliban government armed forces or the Al Qaeda armed forces. He did not cause or attempt to cause any harm to American personnel or property prior to his capture. Mr. Mubanga was not in Afghanistan at the time of his detention, but was taken into custody in Zambia, *see* Mubanga Affidavit, Exhibit E at ¶ 6, turned over to the custody of the U.S. Military there, *see* Mubanga Affidavit, Exhibit E at CM1, transferred to Afghanistan, *see* Mubanga Affidavit, Exhibit E at KM1, illegally transported to and incarcerated at the U.S. Military base at Guantánamo, Cuba, a territory over which the United States exercises exclusive jurisdiction and control.

The Joint Resolution

29. Following the September 11, 2001 attacks on the United States, at the direction of President Bush, the United States began a massive military campaign against the Taliban government, then in power in Afghanistan. On September 18, 2001, a Joint Resolution of Congress authorized President 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." Joint Resolution 23, Authorization for Use of Military Force, Public Law 107-40, 115 Stat. 224 (Jan. 18, 2001).
30. The detained Petitioners are not, and have never been, members of Al Qaeda or any other terrorist group. Prior to their detention, they did not commit any violent act against any American person or espouse any violent act against any American person or property. Nor were they involved in the ensuing armed conflict. They had no involvement, direct or indirect, in the terrorist attacks on the United States on September 11, 2001, or any act of international

terrorism attributed by the United States to Al Qaeda or any other terrorist group. They are not properly subject to the detention order issued by President Bush. Because they did not participate in the armed conflict at any point in time, they are not properly subject to President Bush's authority as Commander-in-Chief or under the laws and usages of war.

31. The detained Petitioners have had no military or terrorist training. They have never been affiliated with or members of any terrorist organization. They have never engaged in combat against American forces.
32. The detained Petitioners were not initially taken into custody by American forces. They were taken into custody against their will by Gambian and Zambian authorities and handed over to the Americans.
33. The detained Petitioners promptly identified themselves by their correct names and nationality to the United States. They requested that the United States provide them with access to their families and to legal counsel. The detained Petitioners were kept blindfolded against their will for lengthy periods while being transported involuntarily and illegally first to Afghanistan and then to Guantánamo. The detained Petitioners believe they were transported to Guantánamo through American territory.

The Detention Order

34. On November 13, 2001, President Bush issued a Military Order authorizing Respondent Rumsfeld to detain indefinitely anyone President 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 Military Order of November 13, 2001. President Bush must make this determination in writing. The Order was neither authorized nor directed by Congress, and is beyond the scope

of the Joint Resolution of September 18, 2001.

35. The Military Order vests President Bush with complete discretion to identify individuals who fall within its purview. It establishes no standards governing the exercise of his discretion. Once a person has been detained, the Order contains no provision for that person to be notified of the charges he may face. The Order authorizes detainees to be held without charges. It contains no provision for a detainee to be notified of his 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 no provision for appeal to an Article III court. In fact, the Order expressly bars review by any court. The Order authorizes indefinite and unreviewable detention, based on nothing more than the President Bush's written determination that an individual is subject to its terms.
36. The Military Order was promulgated in the United States and in this judicial district, the decision to incarcerate the detained Petitioners was made by Respondents in the United States and in this judicial district, the decision to detain Petitioners at Guantánamo was made in the United States and in this judicial district, and the decision to continue detaining the Petitioners was, and is, being made by Respondents in the United States and in this judicial district.
37. President Bush has never certified or determined in any manner, in writing or otherwise, that the detained Petitioners are subject to the Military Order.
38. The detained Petitioners are not properly subject to the Military Order.
39. The petitioners are not lawfully detained pursuant to President Bush's authority as Commander-in-Chief or under the laws and usages of war. The detained Petitioners were not arrested or detained by the United States in the course of an armed conflict.
40. The detained Petitioners El-Banna and Al-Rawi were arrested in The Gambia and detained by Gambian authorities, not by United States authorities. They were not arrested in Afghanistan and were taken there illegally and against their will while a *habeas corpus* petition was pending in the United Kingdom. The detained Petitioner Mubanga was arrested in Zambia and detained by Zambian authorities, not by the United States. Accordingly, the detained Petitioners are not

properly detained under the President Bush's authority as Commander-in-Chief or under the laws and usages of war.

Guantánamo Bay Naval Station

41. On or about January 11, 2002, the United States military began transporting prisoners captured in Afghanistan to Camp X-Ray at the United States Naval Base in Guantánamo Bay, Cuba. In April 2002, all prisoners were transferred to a more permanent prison facility in Guantánamo, Camp Delta. Offenses committed by both civilians and foreign nationals living on Guantánamo are brought before federal courts on the mainland, where respondents enjoy the full panoply of Constitutional rights. Detainees incarcerated at Guantánamo are entitled to test the legality of their detention in the federal courts. *Rasul v. Bush*, 542 U.S. ___, (June 28, 2004).
42. In or about early 2002 and in the spring of 2003, the precise dates being unknown to counsel but known to Respondents, the United States military transferred the detained Petitioners to Guantánamo, where they have been held ever since, in the custody of President Bush and Respondents Rumsfeld, Hood, and Cannon.

The Conditions of Detention at Guantánamo

43. Since gaining control of the detained Petitioners, the United States military has held them virtually *incommunicado*. On information and belief, they have been or will be interrogated repeatedly by agents of the United States Departments of Defense and Justice, and the Central Intelligence Agency, though they have not been charged with an offense, nor have they been notified of any pending or contemplated charges. They have made no appearance before either a military or civilian tribunal of any sort, nor have they been provided counsel or the means to contact counsel. They 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, Respondents have taken the position that the detained Petitioners should not be informed of these rights. As a result, the detained Petitioners lack any ability to protect or to vindicate their rights under domestic and

international law.

44. On information and belief, the detained Petitioners have been forced to provide involuntary statements to Respondents' agents at Guantánamo. The detained Petitioners have been held under conditions that violate their international and constitutional rights to dignity and freedom from cruel, unusual and degrading treatment or punishment. They have been housed throughout their detention in a manner that fails to satisfy both domestic and internationally accepted standards of accommodations for any person subject to detention. They were initially forced to use a bucket for a toilet, and were not provided with basic hygienic facilities. They have been denied any meaningful access to their families. They have not been provided with the opportunity to exercise fully their religious beliefs. They have been exposed to the indignity and humiliation of the cameras of the national and international press, which were brought to Guantánamo with the express consent and control of Respondents.
45. In published statements, President Bush and Respondent Rumsfeld, Brigadier Gen. Michael Lehnert and Col. Terry Carrico, both of whom preceded Respondents Hood and Cannon in their respective positions, have proclaimed that the United States may hold the detained Petitioners under these conditions indefinitely. *See, e.g.*, Roland Watson, *THE TIMES* (LONDON), Jan. 18, 2002 ("Donald Rumsfeld, the U.S. Defense Secretary, suggested last night that al-Qaeda prisoners could be held indefinitely at the base. He said that the detention of some would be open-ended as the United States tried to build a case against them."); Lynne Sladky, *ASSOC. PRESS*, Jan. 22, 2002 ("Marine Brig. Gen. Mike Lehnert, who is in charge of the detention mission, defended the temporary cells where detainees are being held... 'We have to look at Camp X-ray as a work in progress . . .' Lehnert told CNN. Lehnert said plans are to build a more permanent prison 'exactly in accordance with federal prison standards'"); John Mintz, *The WASH. Post*, *Extended Detention In Cuba Mullied*, Feb. 13, 2002 ("As the Bush administration nears completion of new rules for conducting military trials of foreign detainees, U.S. officials say they envision the naval base at Guantánamo Bay, Cuba, as a site for the tribunals and as a terrorist penal colony for many years to come.")¹

¹ *See also* TIME MAG., *Welcome to Camp X-Ray*, Feb. 3, 2002:

46. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

IV
CAUSES OF ACTION

FIRST CLAIM FOR RELIEF
(DUE PROCESS - FIFTH AMENDMENT
TO THE CONSTITUTION OF THE UNITED STATES
UNLAWFUL DEPRIVATION OF LIBERTY)

47. Petitioners incorporate paragraphs 1 - 46 by reference.
48. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the Fifth Amendment to the Constitution of the United States. President Bush has ordered the prolonged, indefinite, and arbitrary detention of individuals, without Due Process of Law. Respondents Rumsfeld, Hood, and Cannon are likewise acting in violation of the Fifth Amendment, since they act at the President's direction. On its face, the Executive Order violates the Fifth Amendment.

SECOND CLAIM FOR RELIEF
(DUE PROCESS - FIFTH AMENDMENT
TO THE CONSTITUTION OF THE UNITED STATES
UNLAWFUL CONDITIONS OF CONFINEMENT)

49. Petitioners incorporate paragraphs 1 - 48 by reference.
50. 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 Constitution of the United States. The President's Military Order, as applied to Petitioners,

More curious still is the matter of the prisoners' ultimate fate. Rumsfeld has laid out four options: a military trial, a trial in U.S. criminal courts, return to their home countries for prosecution, or continued detention "while additional intelligence is gathered." The last seems a distinct possibility: the Pentagon plans to build 2,000 cells at Camp X-Ray.

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violates the Fifth Amendment.

THIRD CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL DEPRIVATION OF LIBERTY)

51. Petitioners expressly incorporate paragraphs 1 - 50 by reference.
52. 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. XXV, XXVI, XXVIII of the American Declaration on the Rights and Duties of Man. President Bush has ordered the prolonged, indefinite, and arbitrary detention of 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 President's Military Order violates international law.

FOURTH CLAIM FOR RELIEF
(DUE PROCESS – INTERNATIONAL LAW
UNLAWFUL CONDITIONS OF CONFINEMENT)

53. Petitioners incorporate paragraphs 1 - 52 by reference.
54. 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. XXV, XXVI, and XXVIII of the American Declaration on the Rights and Duties of Man. The President's Military Order, as applied to the detained Petitioners, violates these and other binding obligations of the United States under International Law.

FIFTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT – TORTURE)

55. Petitioners incorporate paragraphs 1 - 54 by reference.
56. The acts described herein were inflicted deliberately and intentionally for purposes of punishing and intimidating the detained Petitioners.

57. The acts described herein constitute torture in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting torture as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
58. Respondents are liable for said conduct because they directed, ordered, confirmed, ratified, and/or conspired together and with others to commit the acts of torture against the detained Petitioners.
59. Petitioners were forced to suffer severe physical and psychological abuse and agony and are entitled to monetary damages and other relief to be determined at trial.

SIXTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT - CRUEL, INHUMAN OR DEGRADING TREATMENT)

60. Petitioners incorporate paragraphs 1 - 59 by reference.
61. The acts described herein had the intent and the effect of grossly humiliating and debasing the detained Petitioners, forcing them to act against their will and conscience, inciting fear and anguish, and breaking their physical or moral resistance.
62. The acts described herein constitute cruel, inhuman or degrading treatment in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting cruel, inhuman or degrading treatment as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
63. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to cause the cruel, inhuman or degrading treatment of the detained Petitioners.
64. Petitioners were forced to suffer severe physical and psychological abuse and agony and are entitled to monetary damages and other relief to be determined at trial.

SEVENTH CLAIM FOR RELIEF
(ALIEN TORT CLAIMS ACT - ARBITRARY ARREST AND DETENTION)

65. Petitioners incorporate paragraphs 1 - 64 by reference.

66. The acts described herein constitute arbitrary arrest and detention of Petitioners in violation of the law of nations under the Alien Tort Claims Act, 28 U.S.C. § 1350, in that the acts violate customary international law prohibiting arbitrary detention as reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities.
67. Respondents are liable for said conduct in that they directed, ordered, confirmed, ratified, and/or conspired together and with others to bring about the arbitrary arrest detention of the detained Petitioners.
68. As result of Respondents' unlawful conduct, the detained Petitioners were deprived of their freedom, separated from their families and forced to suffer severe physical and mental abuse, and are entitled to monetary damages and other relief to be determined at trial.

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

69. Petitioners incorporate paragraphs 1 - 68 by reference.
70. By the actions described above, Respondents, acting under color of law, have violated and continue to violate the rights accorded to persons 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.

NINTH CLAIM FOR RELIEF
(WAR POWERS CLAUSE)

71. Petitioners incorporate paragraphs 1 - 70 by reference.
72. 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.

TENTH CLAIM FOR RELIEF
(SUSPENSION OF THE WRIT)

73. Petitioners incorporate paragraphs 1 - 72 by reference.
74. To the extent the Executive Order of November 13, 2001, disallows any challenge to the legality of the Petitioners' detention by way of *habeas corpus*, the Order and its enforcement constitute an unlawful Suspension of the Writ, in violation of Article I of the United States Constitution.

ELEVENTH CLAIM FOR RELIEF
(ARBITRARY AND UNLAWFUL DETENTION – VIOLATION OF THE APA)

75. Petitioners incorporate paragraphs 1 - 74 by reference.
76. By detaining Petitioners for the duration and in the manner described herein, Respondents have arbitrarily, unlawfully, and unconstitutionally detained the Petitioners, in violation of the Administrative Procedures Act, 5 U.S.C. § 706(2).

V.
PRAYER FOR RELIEF

WHEREFORE, petitioners pray for relief as follows:

1. Grant Petitioner Jahida Sayyadi Next Friend status, as Next Friend of Bisher Al-Rawi;
2. Grant Petitioner Sabah Sunnrqout Next Friend status, as Next Friend of Jamil El-Banna;
3. Grant Petitioner Kathleen Mubanga Next Friend status, as Next Friend of Martin Mubanga;
4. Order the detained Petitioners released from Respondents' unlawful custody;
5. Order Respondents to allow counsel to meet and confer with the detained Petitioners, in private and unmonitored attorney-client conversations;
6. Order Respondents to cease all interrogations of the detained Petitioners, direct or indirect, while this litigation is pending;
7. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the Fifth Amendment to the United States Constitution;
8. Order and declare the Executive Order of November 13, 2001, unlawful as a violation of the

Administrative Procedures Act, 5 U.S.C. § 702;

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 Executive Order of November 13, 2001, violates the War Powers Clause;
11. 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;
12. Order and declare that the prolonged, indefinite, and restrictive detention of Petitioners is arbitrary and unlawful, a deprivation of liberty without due process in violation of the Fifth Amendment to the United States Constitution, and in violation of the law of nations and treaties of the United States;
13. Order and declare that the detained Petitioners are being held in violation of the Fifth Amendment to the United States Constitution;
14. 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;
15. 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;
16. 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
17. Grant such other relief as the Court may deem necessary and appropriate to protect Petitioners' rights under the United States Constitution, federal statutory law, and international law.

Dated: July 8, 2004

Respectfully submitted,

Counsel for Petitioners:

/s/

George Brent Mickum IV, Bar No. 396142
Douglas J. Behr, Bar No. 163998
KELLER AND HECKMAN LLP
1001 G Street, N.W., Ste. 500W
Washington, D.C. 20001
(202) 434-4245
(202) 434-4646 (fax)

Barbara Olshansky, to be admitted *pro hac vice*
Jeffrey E. Fogel, to be admitted *pro hac vice*
Michael Ratner, to be admitted *pro hac vice*
CENTER FOR CONSTITUTIONAL RIGHTS
666 Broadway, 7th Floor
New York, New York 10012
Tel: (212) 614-6439
Fax: (212) 614-6499

Joseph Margulies, to be admitted *pro hac vice*
MARGULIES & RICHMAN, plc.
2520 Parke Avenue South
Minneapolis, MN 55404
Tel: (612) 872-4900
Tel: (612) 872-4967

Counsel for Petitioners

IN THE
SUPREME COURT OF THE UNITED STATES

BISHER AL-RAWI,)
)
JAHIDA SAYYADI)
As Next Friend Of)
BISHER AL-RAWI)

Petitioners,)

v.)

No. _____

GEORGE WALKER BUSH,)
President of the United States)

DONALD RUMSFELD,)
Secretary United States)
Department of Defense)

MAJ. GEN. GEOFFERY MILLER,)
Commander, Joint Task)
Force - GJMO)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta)
Guantanamo Bay Naval Station)
Guantanamo Bay, Cuba)

Defendants.)

AFFIDAVIT OF JAHIDA SAYYADI

I, JAHIDA SAYYADI, of 4 Fir Grove, New Malden, Surrey KT3 6RH, U.K., being duly sworn, depose and say that I am acting as next friend on behalf of the petitioner, my son, in the above entitled case.

EXHIBIT A

000950

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1. I am a British citizen; my husband, the father of Bisher, died in 1992. I live in the United Kingdom at the above address, and also spend some time in Jordan where my mother live. My mother is sick and I have had to spend a percentage of each year looking after her and my young niece. I am ordinarily permanently resident in the United Kingdom as is my daughter, my son Wahab al-Rawi, and as was my son Bisher al-Rawi until his unlawful detention in Gambia in November of 2002, since which time I have not seen him. Bisher arrived in the United Kingdom from Iraq, the country in which we were born, to start his higher education and has never been back to Iraq since.

2. My son Wahab al-Rawi was born in 1965, and my son, Bisher, in 1967. I also have a daughter Umama. In our wider family we have numerous relatives all also permanently resident in the UK. All of my immediate family, save for my son Bisher, are British citizens.

3. My son Bisher is a highly educated and intelligent man. He completed his A-levels in the United Kingdom, and always excelled at athletics and practical skills. He is exceptionally good-humoured and kind, and is a gentle person. He loved Britain and British society, and regarded Britain as his home. He had an appreciation of the values and principles of justice that govern the country; as a family we believe his interpretation of these principles meant that he did not feel any pressure or need to naturalise as a British citizen. He felt comfortable in Britain as an Iraqi citizen, which in turn increased his respect for British society.

4. All of my family including my children were happy and well established in this country, and trying to make their way in the business world earning a living. My son Bisher was talented and was constantly at work on a number of inventions, some of which had the potential of success. It was

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because of his practical skills, that his brother Wahab al-Rawi asked him to work with him in his project in a mobile processing plant for retrieving peanut oil in The Gambia. It was a plan of both to work there. My son Wahab conducted research into the peanut trade in Gambia through their governmental departments responsible for agriculture, and appreciated that the peanut processing trade was an innovative and potentially profitable project. This was the largest project that my son Wahab had been involved in and I am aware that it was of potentially considerable advantage to him to have a technically knowledgeable and skilled brother to work with him when the actual setting up of the project came to fruition as it was intended to do in November of 2002.

5. I and my family were shocked to learn that instead of successfully commencing the project, all were arrested and detained in Gambia. From the time of learning of this, I and my family took all steps possible to raise the question of their detention with the British authorities in London, and with the Gambian authorities through lawyers there. After one month, my son Wahab returned to England. Wahab as I have stated is a British citizen. My son Bisher did not return and I have not seen him since.

6. Lawyers instructed on my behalf requested help from the Foreign and Commonwealth Office and in turn they instructed the Centre for Constitutional Rights in the United States in February 2003 to take all appropriate actions for him. Considerable help has been provided to me by my Member of Parliament, Edward Davey. All requests to help my son Bisher have been refused on the basis that the British Government cannot offer diplomatic or consular assistance to non-nationals.

J. al-Rawi
15

[Signature]

7. I am aware that my son instructed a solicitor, Gareth Peirce in England when he was wrongly detained in 2002. I believe that he would wish me to take all measures possible to take legal action on his behalf to achieve his release.

8. I know the facts deposed to herein to be true of my own knowledge, except where otherwise appears.

Sworn by the Deponent at _____ on this 12th day of March, 2004

Yusuf Saifullah
Yusuf Saifullah

Before me:

Yusuf Saifullah
~~Yusuf Saifullah~~
ADVOCATE
YUSUF SAIFULLAH

IN THE
SUPREME COURT OF THE UNITED STATES

BISHER AL-RAWI,)
)
JAHIDA SAYYADI)
As Next Friend Of)
BISHER AL-RAWI)
)
Petitioners,)
)
v.) No. _____
)
GEORGE WALKER BUSH,)
President of the United States)
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DONALD RUMSFELD,)
Secretary, United States)
Department of Defense)
)
MAJ. GEN. GEOFFERY MILLER,)
Commander, Joint Task)
Force - GTMO)
Guantánamo Bay Naval Station)
Guantánamo Bay, Cuba)
)
ARMY COL. NELSON J. CANNON,)
Commander, Camp Delta)
Guantánamo Bay Naval Station)
Guantánamo Bay, Cuba)
)
Defendants.)

AFFIDAVIT OF SOLICITOR GARETH PEIRCE

I, GARETH PEIRCE, of 14 Inverness Street, London, United Kingdom, NW1 7HJ, being
duly sworn, depose and state as follows:

EXHIBIT B

000954

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1. I am a solicitor in England and I am a partner in the firm of Birnberg Peirce at the above address. I have been retained by the Second Petitioner, Jahida Sayyadi, to act on her behalf and also on behalf of her son, Bisher Al-Rawi, the First Petitioner, who is presently detained by the United States military at Camp Delta, Guantánamo Bay Naval Station, Cuba (Guantánamo).

2. I was retained by Jahida Sayyadi in November 2002 to act on behalf of her family and on behalf of Bisher Al-Rawi. Annexed here too marked "GPI" is a copy of my designation as solicitor for the first and second petitioners in these proceedings.

3. I was instructed by the first petitioner himself in the United Kingdom on the 2nd of November 2002 when he was detained whilst leaving the United Kingdom en route to set up a business in Gambia. He was released from questioning on November 4th, 2002 when we were informed the reason for his detention had proved to be erroneous.

4. My knowledge of events thereafter is obtained primarily from the family of the first petitioner, and in particular from his brother Wahab.

5. Bisher Al-Rawi, the first petitioner, travelled, as he had intended, to the Gambia, to embark upon a business project in the process of being established in the Gambia by his brother Wahab Al-Rawi that would process and market peanut oil. All appropriate registration had already been entered into with the Gambian authorities. Upon his arrival in the Gambia, he was detained by Gambian authorities, as were his two travelling companions, both colleagues also in the same business project. His brother, Mr Wahab Al-Rawi, who had gone to the airport to meet them upon their arrival, was also detained. Mr Al-Rawi's family retained lawyers in the Gambia to contest their detention. After being detained for almost a month, the two British nationals were released. Bisher Al-Rawi and El-Banna however continued to be detained.

6. After his return to the United Kingdom Wahab Al-Rawi was able, for the first time, to communicate with his family and with lawyers and to describe what had taken place in the Gambia. He also made a statement to Amnesty International in London. He describes being detained at the Gambian National Intelligence Agency and within two hours, Americans in civilian clothes arriving who stated they were from the Embassy. All Wahab Al-Rawi's requests to see the British High Commissioner (he being a British citizen) were ignored.

7. Wahab Al-Rawi states that he was questioned by two Gambians and two Americans, having been transferred in hoods and handcuffs to a specially constructed detention house in which doors and windows were boarded up. The detainees were prevented from communicating with each other. The Gambians, Mr Al-Rawi describes, were apologetic; the Americans applied considerable pressure in a number of ways.

8. I here quote from the statement of Wahab Al-Rawi: *"There were many other bizarre features of the questions, and manner of questions that were put to me. Once, at 3 o'clock in the morning, I was ordered to face the wall with my hands in the air. 'Mr Lee' and his partner then entered the room and asked if he had scared us. I told him that, being an Iraqi, I had got used to such treatment. The other American told me that they could be 'just as tough as the Iraqis'. He also made references to setting the Gambians on us, while Mr Lee tried to give the impression that we were only safe because we were under 'American protection'. Mr Lee also made reference to Middle East countries where he claimed it was not unknown for detainees to be raped under questioning. I was also asked questions about my sexuality. Indeed the other American seemed to be preoccupied with questions of this nature. I had strange scenarios put to me by the Americans -*

about training camps in Gambia. Bisher, I was told, was to be the military trainer because he was the 'sporty one', which was a proposition I found very strange indeed.

9. *I tried to retain my humour and dignity throughout. I was also asked by the Americans whether I was working for the British Secret Services.*

10. *Wahab Al-Rawi has described being aware that Jamal El-Banna was ill-treated. "I was told by the Americans that Bisher was not being submissive and that Mr Al-Banna had been in a fight with the guards. I was not informed by the Americans or the British authorities that my brother or Mr Al-Banna been taken to Afghanistan. We have not received any acknowledgement from the American authorities that they are detaining Bisher."*

11. *I am reliably informed and believe that neither extradition nor deportation proceedings took place in relation to Bisher Al-Rawi in Gambia thereafter. Instead, it is my understanding that he was moved without any legal process by the United States to Bagram Air Base in Afghanistan.*

12. *On the 31st of January 2002, upon becoming aware of this information, I wrote to the British Foreign Secretary asking for intervention on his behalf.*

13. *I attach at "GP2" a copy of the Foreign Office response dated 28th February 2003 in which it declines to provide any consular or diplomatic assistance to Mr Al-Rawi, since he is an Iraqi national. Mr Al-Rawi and his family have all permanently resided in the United Kingdom for approximately two decades. The remainder of Mr Al-Rawi's family are British citizens. The Foreign Office minister who responded, Baroness Amos stated:*

14. *'Under international law and practice we cannot act in a consular or diplomatic role on behalf of the men who are still detained without the consent of the countries of which they are citizens and the country detaining them. The purpose of consular protection is to allow a state to*

protect its own nationals when they are travelling in a second country. The primary responsibility for the two men's detention and welfare lies with the country that holds them and the country of their nationality.

15. *Although you refer to both men having 'long residence' in the United Kingdom, this is not a substitute for nationality. Neither have made the decision to seek British nationality. Therefore we cannot provide consular or diplomatic assistance.*

16. [Re Bisher Al-Rawi] *I understand he is an Iraqi national with indefinite leave to remain in this country. If he was travelling on Iraqi documentation, then clearly it is the role of the Iraqi authorities to provide assistance either directly, or through a country which they have indicated they wish to represent their interests. Alternatively, if he was travelling on refugee documents, the UNCR may be able to help.*

17. [REDACTED] Since that time, and in the absence of any government in Iraq (a country from which Mr Al-Rawi and all his family had fled as refugees two decades before) there continues to be no country willing or able to exert any diplomatic pressure or assistance on Mr Al-Rawi's behalf.

18. Reports of treatment in Bagram Airbase have been made by a number of reputable and responsible newspapers including the *New York Times*, the *Washington Post* and the *Independent* newspaper in Britain. Robert Fisk, an experienced journalist writing in the *Independent* newspaper on August 8th 2002, wrote about Bagram Airbase:

19. *The Americans will give no information about prisoners or the reasons for their detention. They will not say whether their interrogators are [REDACTED]*

[REDACTED]

or when, they intend to release their captives. Indeed, the Americans will not even confirm that prisoners have been seized [REDACTED] and taken across the Afghan border.'

20. Again on the 14th August 2002. Robert Fisk continued to report about Bagram Prison:

21. [REDACTED]
[REDACTED]
[REDACTED]

22. Reports in the Washington Post of December 26th, 2002, and the New York Times of March 4th, 2002 report upon prisoners at Bagram Air Base being [REDACTED]
[REDACTED]
[REDACTED]

23. Some time in early January 2003 Amnesty International received information indicating that Mr Al-Rawi and his colleague Mr El-Banna were being secretly transferred to the Bagram Air Base in Afghanistan. No extradition or deportation proceedings took place in Gambia. Amnesty International was unable to confirm the exact date of transfer as all Gambian and United States officials they contacted refused to confirm the whereabouts to the two men. Their transfer to Bagram took place before they were allowed to consult with a lawyer, before any independent review of the evidence against them and despite the fact that a habeas corpus petition on their behalf was pending in the Courts.

24. Thereafter, again at a date unknown, the family were made aware that Mr Al-Rawi and Mr El-Banna had both been transferred to detention in Guantanamo Bay. On behalf of the family of Bisher Al-Rawi I instructed the Centre for Constitutional Rights in the United States to initiate all such legal action on his behalf as they considered appropriate (I had already in 2002 instructed the

Centre for Constitutional Rights in similar terms to initiate habeas corpus proceedings on behalf of

[REDACTED]
[REDACTED]. The Centre for Constitutional Rights petitioned the Inter-American Commission on Human Rights for the Organisation of American States on March 4th, 2003 on behalf of Moazzam Begg and others.

25. I have since that time continued to press the Foreign Office in England to intervene on behalf of Mr Al-Rawi and to achieve for him compliance with international law. Mr Al-Rawi's member of parliament, Edward Davey, has continuously raised the issue of his situation with the Foreign Office. I produce one reply to Mr Davey, dated the 30th of October 2003 which echoes the continuing response of the Foreign Office in relation to him. "GP3"

26. Baroness Symons indicated to Edward Davey, *"I acknowledge there is now no Government of Iraq from which we could seek consent to represent Mr Al-Rawi. However, there are other factors to take into consideration. To extend our consular assistance to individuals who are resident in the UK, but who do not hold British nationality, would entail a change in policy. The number of people who would fall into this category would be large and the Foreign and Commonwealth Office does not have the resources to provide them with such assistance...we are however approaching the International Committee for the Red Cross on an informal basis to see if they have any information about Mr Al-Rawi which they can pass on to his family."* I exhibit that reply.

27. I know the facts deposed to herein to be true of my own knowledge, except where otherwise appears.

Sworn by the Deponent at ~~93 BURNES SOLICITORS~~ on this 9 day of March, 2004

68 PARKWAY
LONDON
NW1 7AH

020 7485 3511

Before me:

Cliff

Garth Peir

IN THE
SUPREME COURT OF THE UNITED STATES

Bisher AL-RAWI,

Jahida SAYYADI,
as Next Friend of
Bisher AL-RAWI

Petitioners

v.

GEORGE WALKER BUSH,
President of the United States

DONALD RUMSFELD,
Secretary, United States
Department of Defense

MAJ. GEN. GEOFFERY MILLER,
Commander, Joint Task
Force - 160
Guantánamo Bay Naval Station
Guantánamo Bay, Cuba

ARMY COL. NELSON J. CANNON,
Commander, Camp Delta
Guantánamo Bay Naval Station
Guantánamo Bay, Cuba

Defendants.

No. _____

EXHIBITS TO PETITION FOR WRIT OF HABEAS CORPUS

EXHIBITS TO AFFIDAVIT OF SOLICITOR GARETH PEIRCE

- A. GP1: Copy of designation as solicitor for the first and second petitioners in these proceedings.
- B. GP2: Copy of letter sent by the FOREIGN OFFICE to Birnberg Peirce & Partners. (February 28th, 2003)
- C. GP3: Copy of letter sent by the FOREIGN OFFICE to Edward DAVEY, member of parliament. (October 30th, 2003)



OSBORNES SOLICITORS
66 PARKWAY
LONDON
NW1 7AH
020 7185 8811

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34 2642

EXHIBIT GP1

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GREAT BRITAIN

AUTHORISATION

COMES NOW, Jahida Sayyadi, being duly sworn, and deposes and states as follows:

1. I am related to Bisher Al-Rawi. He is my son. I love him and want only what is in his best interests.
2. It is my understanding that he is not allowed access to a lawyer or to the courts of the United States.
3. I wish to act as his "next friend" and I hereby retain request and authorise Gareth Peirce, solicitor, and Daniel Guedalla, solicitor, at Birnberg Peirce and Partners solicitors, 14 Inverness Street, London NW1 7HJ, United Kingdom, and in the United States I retain and authorise Clive A. Stafford Smith, and his associates, to act on behalf of Bisher Al-Rawi and take whatever legal steps that they consider to be in his best interests.

Sworn to this 3 day of March 2004

JAHIDA-SAYYADI Witnessed: ADVOCATE - YAD. M. J. MAMMOUD

J.S. Al-Rawi

J

**ADVOCATE
YAD MAMMOUD**

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EXHIBIT GP2

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370642

RECEIVED 05 MAR 2003



Foreign &
Commonwealth
Office

London SW1A 2AH

From The Parliamentary Under Secretary of State

Your ref: GP/jp
Our ref: 158721/03

28 February 2003

Bimberg Peirce and Partners
14 Livery Street
London
NW1 7HJ

Dear Sirs,

Thank you for your letter of 31 January to Jack Straw about Jamil El-Banna and Bisher Al-Rawi, who are detained in Afghanistan having originally been detained in The Gambia. I am replying as Minister responsible for consular matters.

Contrary to the information you have been given, I would like to assure you that the British Government did not request the detention of the group in The Gambia. The British Government has played no role in any transfer to Bagram.

Once we became aware of the arrest of British nationals in The Gambia we made a number of representations to the local authorities. We sought immediate consular access and information on the reasons why the men had been detained. These were repeated at a senior level, including by our High Commissioner personally. As you know, Abdallah El-Janoudi and Wahab Al-Rawi were subsequently released.

However, the two remaining men are not British nationals. Under international law and practice we cannot act in a consular or diplomatic role on behalf of the men who are still detained without the consent of the countries of which they are citizens and the country detaining them. The purpose of consular protection is to allow a state to protect its own nationals when they are travelling in a second country. The primary responsibility for the two mens' detention and welfare lies with the country that holds them and the country of their nationality.

Although you refer to both men having 'long residence' in the United Kingdom, this is not a substitute for nationality. Neither have made the decision to seek British nationality. Therefore, we cannot provide consular or diplomatic assistance.

I understand that Mr El-Banna is a refugee. Refugee status does not give the country of residence the right to provide consular or diplomatic assistance. However, the United Nations High Commission for Refugees (UNHCR) is entitled to provide assistance.

Your letter does not make clear Bisher Al-Rawi's precise status, although I understand he is an Iraqi national with indefinite leave to remain in this country. If he

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was travelling on Iraqi documentation, then clearly it is the role of the Iraqi authorities to provide assistance either directly, or through a country which they have indicated they wish to represent their interests. Alternatively, if he was travelling on refugee documents, the UNHCR may be able to help.

I note your comments about the treatment that Mr Wahab Al-Rawi claims to have received while he was in detention. Staff in our Consular Division in London are in contact with Mr Al-Rawi.

If you wish to discuss this matter further, please do not hesitate to contact John Culley in our Consular Division on 020 7008 0143.

*Yours sincerely,
Baroness Amos*

BARONESS AMOS

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EXHIBIT GP3

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Foreign &
Commonwealth
Office

London SW1A 2AH

30 October 2003

Mark Jennings
C/o Edward Davey Esq MP
21 Berrylands Road
Surbiton
KT5 8QX

From The Minister of State

Dear Mark Jennings,

In the recent meeting with the Muslim Parliament of Great Britain, you mentioned correspondence between Baroness Amos and Edward Davey MP about Bisher al-Rawi, who is detained at Guantanamo Bay.

Mr Davey wrote to the Prime Minister on 13 and 14 July to follow-up on previous correspondence on this issue. Bill Rammell replied as Foreign and Commonwealth Office (FCO) Duty Minister on 13 August. As explained in that letter, neither Mr al-Rawi, nor his friend Mr al-Banna, are British nationals and we are therefore not in a position to provide them with consular or diplomatic assistance or protection.

Furthermore, although Mr al-Rawi is an Iraqi national, the UK government is not in a position to seek to make representations on his behalf. The fact that the UK is an Occupying Power in Iraq does not mean that the UK has any right, as a matter of law, to exercise consular or diplomatic functions on behalf of Iraqi nationals.

At our meeting you pointed out a sentence in a letter dated 5 February from Baroness Amos to Edward Davey MP, which says "Under international law, we cannot assume protection for another country's nationals without the consent of both the countries concerned." At the time that letter was written, there was an Iraqi Government and we would not have been able to represent Mr al-Rawi without their consent.

~~I acknowledge that there is now no "government of Iraq" from which we could seek consent to represent Mr al-Rawi. However, there are other factors to take into consideration. To extend our consular assistance to individuals who are resident in the UK, but who do not hold British nationality, would entail a change in policy. The number of people who would fall into this category would be large and the Foreign and Commonwealth Office does not have the resources to provide them with such assistance. Even if our assistance was restricted to those who had residency in the UK but did not have another government to represent them, we estimate that the numbers involved would still be significant.~~

I am sorry that I cannot give you a more helpful reply. I can assure you that this issue has been given a considerable amount of attention. However, the conclusion has been

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reached that we are not in a position to extend our current level of consular and diplomatic assistance and protection to non-British nationals, whatever their circumstances. We are however approaching the International Committee for the Red Cross on an informal basis to see if they have any information about Mr al-Rawi which they can pass on to his family.

*Yours sincerely,
Elizabeth Symons*

BARONESS SYMONS

900970

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Summarized Sworn Detainee Statement

When asked by the Tribunal President the detainee stated he understood the CSRT process and he did not have any questions.

When the Tribunal President asked if the Detainee had any questions concerning the Tribunal process, the Detainee said "yes."

Tribunal President: What is your question?

Detainee: First, I don't understand the Oath. I didn't give permission for my Personal Representative to take an Oath. Why did he take an Oath when he doesn't know me?

Tribunal President: The Personal Representative gave an Oath that he would do his duty. It had nothing to do with what you were going to do.

Detainee: How can he not have anything to do with it, if he is my Personal Representative?

Tribunal President: His Oath had nothing to do with what you are going to say. His Oath deals with his responsibilities in this Tribunal.

Detainee: His work is a Personal Representative. What other work?

Tribunal President: The only work that matters in this Tribunal is his work as a Personal Representative.

Detainee: Is he doing other work rather than representing me?

Tribunal President: The only thing he is doing in this Tribunal is representing you.

Detainee: I want to know why he took an Oath. Why am I not the one taking the Oath?

Tribunal President: You will have an opportunity to take an Oath at the appropriate time. The oath is to assure...

[Detainee interrupted]: I do not know you. Who are the other people, who are you?

Tribunal President: I am the Tribunal President. The person to my left and my right are Tribunal members. We are here to determine if you have been appropriately classified as an enemy combatant. That is all you need to know about us at this time. Do you have any other questions concerning the process?

Detainee: Yesterday, my Personal Representative told me after I was taken from my room, I would get food and water. I did not receive any food or water. How can I trust or believe my Personal Representative? You can asked the soldier that was

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Enclosure (3)
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outside.

Tribunal President: The Personal Representative had no control over what the guards do and don't do. What the Personal Representative said was to you was in good faith.

Detainee: The translator was there when the Personal Representative promised I would get food and water.

Tribunal President: We are sorry you did not get food and water. But I cannot change that. Your Personal Representative is here to assist you in this process. Do you have any other questions concerning this process?

Detainee: How long will this take?

Tribunal President: That depends on you.

Detainee: How long will it take before you decide the results of this Tribunal?

Tribunal President: We should have a decision today. It can take quite a while before it is reviewed by the Convening Authority in Washington, D.C. I have no control over the timeline of the process. You will be told the results of the process once it is approved by the Convening Authority in Washington, D.C.

[When the Recorder handed the Tribunal President the Unclassified Summary, the Detainee stated he didn't know what it was. The Recorder explained to the Detainee the Unclassified Summary.]

[When asked by the Tribunal President if the Detainee wanted to make a statement to the Tribunal, the Detainee stated:]

I want to ask my Personal Representative what he did with the information I gave him Yesterday?

Personal Representative: I have the notes with me on what we talked about yesterday.

Detainee: I want to know what you did with them?

Personal Representative: It is here on this paper.

Detainee: I want to hear what he did and what the judge has to say about it. The information that we talked about yesterday was incorrect. If the information from yesterday wasn't corrected, why are we doing this?

Tribunal President: The Personal Representative did not provide this Tribunal panel with any information yesterday. Today is the first time we are going to hear the information. The procedure is done this way so you have the opportunity to hear the information that

UNCLASSIFIED / FOUO

is presented to us. Would you like for the Personal Representative to present the information you gave him yesterday, to us now? Or would you like to present it to us yourself?

[Detainee asked the Personal Representative if he corrected the information he gave him yesterday.]

Personal Representative: I don't know what you mean by corrected. I took notes.

Detainee: Yesterday, you provided me information and I corrected it. I told you I wasn't the person they were referring to. I never went to the places that you said I did. I am not the person this case is based on.

Personal Representative [to Detainee:] I can read the notes to you, if you would like?

Detainee: Clarify the notes, so I know what you did.

Tribunal President [to Detainee]: The Personal Representative didn't do anything with the information you gave him yesterday except record it for his own use. The idea of the Tribunal is to allow you to present the information to us. Then we can do something with it, if we feel it is appropriate.

Detainee: What is the point of having a Personal Representative and having him write things down? I don't need a Personal Representative, you can ask me directly.

Tribunal President: The Personal Representative is here to help you make sure everything you want to say, gets said.

Detainee: The first question, I am not the person they are talking about. The information in the unclassified summary is not about me. How can say someone is me, when it isn't? Yesterday, I gave my Personal Representative the information so he could review and prevent this from happening. He wrote everything down.

Tribunal President: Personal Representative tell us what the Detainee told you yesterday.

[Personal Representative began referring to the Unclassified Summary of the Evidence]

Personal Representative: Item 3.a. (The Detainee is an al Qaida fighter): He said he did not live in al Qaida. This is a case of mistaken identity.

Item 3.a.1 (In the year 2000, the Detainee reportedly traveled from Yemen to Afghanistan.)

Detainee: That is not correct. First, that is not my name. My name is Agnahn Purhan Abjallil. I am from Orday City in Yemen, not a city in al Qaida. My city is very far from the city of al Qaida. That is not my name and I am not from that city.

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Enclosure (3)
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Personal Representative: Item 3.a.1. (In the year 2000, the Detainee reportedly traveled from Yemen to Afghanistan.)

Detainee: I told you, I am not the person. Why do you keep referring me to that person? That is not my name.

Tribunal President: It is the name that has been provided during your interrogations and it is the name you have provided to us in the past.

Detainee: That is why I told my Personal Representative in the interview it was a mistake and he needed to review the information. If that is not my name and not the city I am from.

Tribunal President: al Qaida is not a city. It is the name of an organization.

Detainee: Whether it is a city or an organization, I am not from al Qaida. I am from Orday City.

Tribunal President: Are you from Yemen?

Detainee: Yes, I am from Orday.

Tribunal President: Did you travel from Yemen to Afghanistan?

Detainee: I went from Yemen to Afghanistan.

Tribunal President: Did you do that in the year 2000?

Detainee: I don't know the time.

Tribunal President: Was it the year 1421?

Detainee: I am from a village, I cannot tell time.

Tribunal President: Very good. Did you train at the al-Farouq training camp in Afghanistan?

Detainee: That is incorrect information. You have the wrong person.

Tribunal President: Did you receive training in Afghanistan?

Detainee: No, that is incorrect. I have medical paperwork that will state I went there for treatment. Why didn't my Personal Representative present the information in my medical records?

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Tribunal President: Now is the time for information to be presented to the Tribunal, not before.

Detainee: My medical records can verify this information. I gave this information three years ago. The information you are presenting is based on another person. You haven't come up with the right information about me.

Tribunal President: Now is the time for you to tell us what you believe is the correct information about yourself.

Detainee: All the information is in my files.

Tribunal President: We will read it when we read the files later. We are giving you the opportunity to tell us your story now, if you wish.

Detainee: That is what I am doing. I gave you the information. The name is not correct. I told you I went there for medical treatment and there is official paperwork that will verify that. (Inaudible) How can this be possible? I am suppose to review the information, so I can tell you correctly.

Tribunal President: Now is the time for you to tell us why you were in Afghanistan. You told us it was for medical treatment.

Detainee: Yes, medical treatment. That is why I told my Personal Representative the process would be much easier if he would contact the Ministry of Health and get the records regarding my treatment. You would then have all the information you needed. The Tribunal has all the equipment needed to get in contact with the people that can provide you with my information. You can fax Jordan or the hospital and they can send you the information that will show you the truth.

Tribunal President: Your files are in Jordan?

Detainee: Yes, (inaudible) I was supposed to return to that hospital. You can memorize the process. You have my name and address.

[The President asked the translator to have the Detainee refrain from talking while the she is talking, because the Tribunal cannot understand him.]

Tribunal President: You went to a hospital in Jordan. What was the name of the hospital in Jordan?

Detainee: It was not a hospital.

Tribunal President: What was its name?

Detainee: The Islam Jordanian Hospital.

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Tribunal President: In what city?

Detainee: Oman.

Tribunal President: From there you went to Afghanistan?

Detainee: Why is my Personal Representative not helping me, I already gave him that Information? He was provided the information in Arabic and English.

[Personal Representative to Tribunal]: The Detainee claims he went for medical treatment in Pakistan, and is not a fighter.

Detainee: Because I am poor and can't afford treatment, I went for humanitarian aid.

Personal Representative: The Detainee was diagnosed in Jordan but the cost was too Expensive. He decided to go to Pakistan where the treatment was cheaper.

Detainee: Yes

Personal Representative: He started out in Yemen. He was diagnosed in Jordan. He went back for a short time to Yemen before going to Pakistan.

Detainee: Yes, correct.

Personal Representative: The doctor that was treating him in Pakistan moved several times; one of those times to Afghanistan.

Detainee: It was too expensive for me to get treatment. The person that could treat me for a reasonable price was in Afghanistan.

[Tribunal President to Personal Representative:] What else did the Detainee tell you?

Personal Representative: The clinic in Yemen, where he got treatment, was Al Jamuri in the town of Sanah from 1995 to 1996.

Detainee: Yes

Personal Representative: Item 3.a.2 (The Detainee reportedly received training at the al-Farouq training camp):

Detainee: I was going to a hospital for treatment. How could I be going for training?

Personal Representative: Item 3.a.2 the Detainee did not directly answer.

Item 3.b.1. (In April 2001, the detainee reportedly returned to Afghanistan): The

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Detainee answered he did not live in al Qaida.

Detainee: I told you I lived in Orday. I am not from al Qaida.

Tribunal President: We understand.

Personal Representative: Item 3.b.2 (The Detainee reportedly went to the front lines in Kabul): The Detainee stated it was a case of mistaken identity.

Tribunal President to Personal Representative: Was there anything else?

Personal Representative: No, Sir.

Detainee: Is it clear now?

Tribunal President: Yes, your story is clear to us.

Detainee: People told me before my story was clear, but they never went and got my files. The problem could have ended quite easily.

[When asked by the Tribunal President if the Personal Representative had any questions for the Detainee, the Personal Representative stated no.]

Detainee: Why have I been here for three years? Why have I been away from my home and family for three years?

Tribunal President: That is what we are trying to determine today.

Detainee: Why did you come after three years? Why wasn't it done much sooner after my arrest?

Tribunal President: I cannot answer to what has happened in the past. I was asked to come here now, and I came.

Detainee: Why am I not allowed freedom here?

Tribunal President: Because you have been classified as an enemy combatant.

Detainee: How can they classify me an enemy combatant? You don't have the right documents.

Tribunal President: That is what we are here to determine.

Detainee: For three years I haven't been treated very well because of wrong information. Would you let that happen to you? What will be your position if you find out what happened to me was based on wrong information and I am innocent?

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Tribunal President: Your current conduct is unacceptable. If you keep interrupting the proceedings, you will be removed and the hearing will continue without you.

Summarized Answers in Response to Questions by the Recorder:

Q. What is your full name?

A. I told you it is Agnahn Purhan Abjallil.

Q. When you were in Afghanistan and going to the hospital, where did you live?

A. Abdul Okmahn Station.

Q. I don't understand what you mean by station.

A. It is a school.

Q. Did you work in Afghanistan?

A. Going back to the first question, I went there for treatment. How do you think I was going to work?

Q. Did you ever go to al-Farouq, even for good reasons?

A. I was at the school receiving shots for my treatment. I left and then came back to the school. When I was in Yemen, I was given no hope. I was told I could receive treatment in Pakistan. I went with the person who was going to treat me, but he had other business in Pakistan. I was told to wait at the school until he was finished his business, then he would return and finish my treatment.

Summarized Answers in Response to Questions by the Tribunal Members:

Q. What were you being treated for?

A. I had a stroke. I lost my vision and hearing in one ear. My doctor's name and the treatment I received is all in my files.

Q. Why was the treatment done at a school?

A. The person who treated me works for humanitarian aid. I could not afford to be treated at a hospital. The aid worker told me that after he was done working, he would give me my treatment. After my treatment, he said he would take me back home. He was doing me a favor. He treated me for five days.

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Q. What kind of school was it?

A. They taught students the Koran.

Q. Personal Representative do you have any other evidence to present to this Tribunal?

A. No, Sir.

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.

Tribunal President

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Summarized Detainee Statement

Tribunal President: Abdul, you may now present any evidence you have to the Tribunal and you have the assistance of your Personal Representative in doing so. Do you want to present information to the Tribunal?

Detainee: I don't have any information.

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

Personal Representative: Yes, Ma'am. I do. [Speaking to the Detainee] Do you still wish to make an oral statement based on these facts? [Personal Representative hands the Detainee a translated copy of the unclassified summary of evidence.]

Detainee: Do you want me to comment about the four accusations against me?

Personal Representative: Yes.

Tribunal President: I'd like to ask you if you would like to make your statement under oath or not under oath?

Detainee: If you want, I can make it under oath.

Tribunal President: Recorder will you please present him the oath?

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

Detainee: My name is not Abdul Latif. Abdul Latif is my father.

Tribunal President: What is the correct name?

Detainee: Jamil.

Tribunal President: Can you spell that for me please?

Detainee: J-A-M-I-L.

Tribunal President: Is your name Abdul Jamil?

Detainee: Jamil Abdul Latif Elbanna. Elbanna is my family name.

Tribunal President: We have made the correction. Thank you. You may make your statement now.

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In the following section of the summarized transcript, the Detainee addresses each point on the Unclassified Summary of Evidence in order. Because the Detainee does not indicate the text of the point being addressed, the points from the Unclassified Summary of Evidence are provided below in italics to put the detainee's statement into context.

3.a. The Detainee is a member of Al Qaida.

1. Abu Qatada is a known Al Qaida operative arrested in the United Kingdom as a danger to national security.

Detainee: What is my involvement in that? The man was arrested but what does that have to do with me? I was just one of the people out of hundreds that used to go pray with them. If I were any danger, then Great Britain would have put me in prison. I would not have gotten released officially when I went to Gambia. I don't have anything with the British Government.

2. Detainee visited Abu Qatada while Qatada was in hiding from the British police.

Detainee: Abu Qatada was living in an apartment away from his family. The newscast or report was given that anyone who was known as Al Qaida or accused of being Al Qaida was hiding at that time. I did not know where he was and I did not care where he was. After seven to eight months, a word came to me that he was arrested. The person that is arrested is here now [in Guantanamo Bay, Cuba,] asked of me to take the wife and the son of Abu Qatada to Abu Qatada because he missed his family and wanted to see them. I had a vehicle, so I took them in my vehicle. I took them to the house normally. Maybe the British Government was watching me, I don't know. The house was raided and I was told to take the wife and son back to their home. I went to that house and took the wife and son back home. That was the reason I visited Abu Qatada. I was trying to do something good by taking his wife to see him. Is that clear?

Tribunal President: Yes, thank you.

3. Detainee has been indicted by a Spanish National High Court Judge for membership in a terrorist organization.

Detainee: I have never heard of this until just now. In my whole life, I have never been a member of any terrorist organization or anything else to do with that. I have only prayed, worshipped God, and that is it. I was surprised that they have the court judging me for that. Maybe someone accused me when I wasn't there and gave my name up. I am not sure, I don't know. That's it.

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4. *Detainee was arrested in Gambia while attempting to board an airplane with equipment that resembled a homemade electronic device.*

Detainee: I never tried to get on the airplane with an electronic device or all this that has been said. Before I traveled to Gambia, a week before, we were arrested because of that device. Even when we were arrested, I did not know anything about this device. I had not even seen it. The British Government can tell you that the owner of the device is here. The name of this person is Bashir and he is here now. I have not seen this device, never. We were arrested for three days for this device. The court said that device was sold on the market. It was sold on the market. It was a battery generating device. The court cleared us for travel to Gambia. The following Friday, I went back and traveled to Gambia again. I had business there. If you will review my file, I have told them everything about my work there. Gambia did not arrest us because of that device. We were kidnapped in Gambia, not arrested. They wanted to know about the containers and our luggage we shipped from Britain. They wanted to know what our luggage contained. If we were cleared, we were to be released. I told them okay, fine. We stayed one month there. We were sitting at home, comfortable. There was nothing going on. If I had done something wrong, I would have escaped and run away but I stayed there. Then after two weeks, we were put on an airplane to Afghanistan. In Afghanistan, they put us in a dark place underground. I don't even know what I have done. That is kidnapping, not arresting. Is this justice? Is this how things are done here? This is what my lawyer stated in the letter for me. I will repeat, if I were any danger to anyone, Britain would have put me in jail. That's it and I thank you very much.

Tribunal President: Jamil, does that conclude your statement?

Detainee: Those are the things that I have. Yes. If you have any questions, I am ready.

Tribunal President: 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: Prior to the time that you took Abu Qatada's family to visit him, did you visit Abu Qatada any other times on your own?

Detainee: No.

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Tribunal Member: How did you know where he was?

Detainee: Bashir told me. He gave me the address. He knew that address, but I did not know that address.

Tribunal Member: Who was Bashir again?

Detainee: He was the one who was arrested with me and he is here. His number is 906.

Tribunal Member: Bashir was arrested in Gambia?

Detainee: Yes.

Tribunal Member: Bashir was your associate in London?

Detainee: He was a friend.

Tribunal Member: How did Bashir know Abu Qatada's address?

Detainee: I swear to God, I do not know. He said he knew the apartment. You can ask Bashir and he will answer you.

Tribunal Member: Did Bashir go with you when you took Abu Qatada's family to visit him?

Detainee: Yes. He showed me the way.

Tribunal Member: Was Bashir in the car with you?

Detainee: No, he was on a motorcycle. It was a long distance and I did not know the roads very well.

Tribunal Member: So you drove in a car and followed Bashir on the motorcycle?

Detainee: Yes.

Tribunal Member: Prior to that time, once Abu Qatada disappeared for a while, you never had any contact with him at all?

Detainee: No, I was praying there in a mosque with him.

Tribunal Member: Did Abu Qatada stop going to the mosque?

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Detainee: Before he went into hiding, I did not see him for ten months. He did not pray in that mosque. I started praying in another mosque.

Tribunal Member: Did you talk to Abu Qatada on the telephone or send any emails to him? Did you communicate with him in any other way?

Detainee: Before I was arrested, or after I was arrested?

Tribunal Member: In those ten months when Abu Qatada disappeared.

Detainee: No. Never.

Tribunal Member: The electronic device, did you ever carry it yourself when you were trying to board the airplane?

Detainee: I have never seen it. I do not know what it looks like.

Tribunal Member: So it was not in your luggage? You never touched it or saw it or had anything to do with it?

Detainee: No. It was in Bashir's luggage. Bashir will say it was with him and he brought it with him. He would not lie, he would tell you that the device was his.

Tribunal Member: The device was not in your luggage at all?

Detainee: Yes, it was not mine. The British police know this.

Tribunal Member: When were you arrested?

Detainee: In Gambia.

Tribunal Member: When?

Detainee: 7 – 11 two years ago.

Tribunal Member: So July 11th, two years ago?

Detainee: The eleventh month, November.

Tribunal Member: So November 2002?

Detainee: Maybe, I don't know exactly the date. This kind of situation I am in, I have even forgotten my phone number.

Tribunal Member: Bashir was arrested with you at the same time?

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Detainee: Yes.

Tribunal Member: Did you have any weapons when you were arrested?

Detainee: No. Never.

Tribunal Member: Are you a member of Al Qaida?

Detainee: Never. No.

Tribunal Member: Do you know Usama Bin Laden?

Detainee: No.

Tribunal Member: Have you had any contacts with senior Al Qaida leaders?

Detainee: No. Never.

Tribunal Member: Do you have any idea what terrorist organization the Spanish High Court would charge you of being a member of?

Detainee: I don't know.

Tribunal Member: Have you ever supported or directed actions of those who support terrorist organizations?

Detainee: No.

Tribunal Member: You said you were kidnapped in Gambia. Who kidnapped you?

Detainee: The Americans.

Tribunal Member: Were they American soldiers or American civilians?

Detainee: Civilians from the embassy. That is what I was told.

Tribunal Member: Did they identify themselves to any further degree?

Detainee: They said they were from the embassy.

Tribunal Member: From the embassy?

Detainee: When they came and arrested and handcuffed me, they were wearing all black. They even covered their heads black.

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Tribunal Member: This was in your home?

Detainee: It was the last day. One day before they took us to Afghanistan.

Tribunal Member: Did these folks come into your home or were you already in Gambia?

Detainee: The embassy put us in a separate house by ourselves.

Tribunal Member: The American Embassy?

Detainee: Yes.

Tribunal Member: Thank you.

Detainee: You are welcome.

Tribunal President: What was your business in Gambia? What did you do in Gambia?

Detainee: There is a Sudanian company that belongs to Al Bashir. It was an oil company. Not petroleum oil, but cooking oil.

Tribunal President: What did you do for that company?

Detainee: I was new to that company. We were shipping the equipment from India. Generators and vehicles from Great Britain. It was two containers shipped from Britain to the company that contained vehicles and equipment for the company.

Tribunal President: What exactly was your job or position in the company?

Detainee: I was a manager over the employees there so they would perform well. That is what I was told by the owner to do. The owner is Bashir's brother. The company has closed down. The embassy has taken the vehicles, the equipment, everything.

Tribunal President: Why has the business closed down?

Detainee: Because when we went to Gambia to open this new business, they took us and they closed us down. We went there during the season when it was time for the oil beans to be harvested.

Tribunal President: Who closed the business down?

Detainee: The embassy. The embassy took everything.

Tribunal President: Which embassy?

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Detainee: The American Embassy. Everything was taken.

Tribunal President: Do you know if the company was affiliated or associated with terrorist organizations?

Detainee: No. Never. There are documents proving where the company money comes from; where it goes. The money came from the bank officially. We took the money as a mortgage. There are official documents for everything. We are being accused that the money is for Al Qaida.

Tribunal President: When you say "they," are you referring to the American Embassy?

Detainee: Yes, and the investigators here. They have added a lot of accusations against me. I am going to get capital punishment.

Tribunal President: Explain again, how did you know Abu Qatada?

Detainee: I knew him from Pakistan. I was in Pakistan before, in 1992.

Tribunal President: How did you know Qatada?

Detainee: He used to teach at the university and he was a neighbor in the same neighborhood also.

Tribunal President: Did you attend the university?

Detainee: No.

Tribunal President: So you knew Qatada from the neighborhood?

Detainee: Yes, he was our neighbor.

Tribunal President: Is that the reason why you were chosen instead of Bashir to take his family to visit him?

Detainee: Bashir did not have a vehicle to take them. That is why they chose me, because I had a vehicle. Before I was arrested, there were communications between us.

Tribunal President: Before you were arrested?

Detainee: Before all these problems. Years before this. There were the holidays; when my wife had a child; when his wife had a child. Qatada trusted me, maybe that is why they asked me to take his wife there. Maybe because he is Jordanian and I am Jordanian.

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Tribunal President: You are Jordanian?

Detainee: Yes.

Tribunal President: But you live in Great Britain?

Detainee: Yes.

Tribunal President: What did you do in Great Britain before you started working for the company?

Detainee: My work in Britain?

Tribunal President: Yes.

Detainee: I used to take aid from the Government.

Tribunal President: You were not working?

Detainee: No. I worked, but under table without the Government's knowledge. The aid that the Government gave me was not enough. I have children and I needed to feed them.

Tribunal President: What type of work did you do under the table?

Detainee: I would fix and sell vehicles for car auctions. I was also a healer. I would pray over sick people and take away the bad spirits. They would give me money for that. Something like a witch doctor. I am telling you the truth.

Tribunal President: The one month you stayed in Gambia, why did you stay there for a whole month?

Detainee: They were checking the containers for explosives, weapons and so on for the security of that country. I told them fine, go ahead and check everything.

Tribunal President: Were these the containers for the business or your luggage?

Detainee: For the company. The luggage was checked on the spot when we arrived.

Tribunal President: Was this the same time your luggage was accused of having the electronic device.

Detainee: No, they never mentioned that.

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Tribunal President: So during that one month you were in Gambia, were you arrested or incarcerated?

Detainee: No, I was put in a house. I was given food and drinks.

Tribunal President: Was that similar to house arrest?

Detainee: No, we were just left alone in one house.

Tribunal President: So you were free to come and go?

Detainee: Yes. But after ten days of staying in that house, we were handcuffed. We weren't able to move from one place to another.

Tribunal President: Why were you handcuffed?

Detainee: I don't know. It was strange.

Tribunal President: Who handcuffed you?

Detainee: The Americans. They were in cooperation with the Gambian intelligence. They did not feed us well. They used to feed us chick peas everyday. The food that I brought with me from Britain. I was fasting for Ramadan.

Tribunal President: Can you tell me when that was? After the ten days you were handcuffed, when was that?

Detainee: Starting from 7-11, that was the first dates we were arrested there in Gambia. Twenty days we were free to walk around the house. We were able to leave and come in. We had our money with us. We were paying the Gambians to eat or they would bring us food. Then they took us to a house by ourselves and they were very tight on us there. There was interrogation, too.

Tribunal President: You were interrogated there?

Detainee: Yes.

Tribunal President: How many days were you handcuffed?

Detainee: About ten days. Not during the whole time. But when I wanted to go to the restroom or somewhere else, they would handcuff me. Or if I wanted to take a shower, they used the same shampoo that I brought with me from Great Britain; that is what I washed with.

Tribunal President: What happened to you after the ten days?

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Detainee: They took me, covered me, put me in a vehicle and sent me somewhere. I don't know where. It was at night. Then from there to the airport right away.

Tribunal President: An airport in Gambia?

Detainee: Yes. We were in a room like this with about eight men. All with covered up faces.

Tribunal President: Were you by yourself at that time?

Detainee: Yes. They cut off my clothes. They were pulling on my hands and my legs.

Tribunal President: When you went to the airport, did you board a plane at that time?

Detainee: They put me in an airplane and they made me wear the handcuffs that go around your body so I would not do anything on the airplane.

Tribunal President: Okay.

Detainee: They searched me. They checked my blood. They checked my sugar level. They put me on an airplane - handcuffed me.

Tribunal President: Is this the time you said you were kidnapped?

Detainee: This is all kidnapping. Yes. They took me underground in the dark. I did not see light for two weeks.

Tribunal President: Is that after you traveled to Afghanistan or Pakistan?

Detainee: After I got off of the airplane.

Tribunal President: In where?

Detainee: Bagram, Afghanistan. Right there in the dark. They put me in the dark. I was surprised. I did not know what I did wrong or what I did. They starved me; they handcuffed me, there was no food.

Tribunal President: And they are who?

Detainee: Americans. I was under their control. They are the ones who took me and they put me there. They know what they have done. I was surprised that the Americans would do such a thing. It shocked me.

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Detainee: The British Government said they stopped us because of that battery generating device.

Tribunal President: Do you know what that device did?

Detainee: The police asked me, "Does it generate batteries?" I told them I did not know, does it? Then they asked me which one was my luggage, my bag. I told them which one was mine. They told me they found the device in other luggage. That luggage belonged to Bashir. They found it was just a battery generating device.

Tribunal President: Do any of the other Tribunal Members have any other questions?

Tribunal Members: No, Ma'am.

Tribunal President: Jamil, do you have any other evidence to present to the Tribunal?

Detainee: No, thank you.

Tribunal President: Personal Representative, do you have any other evidence, or does the Detainee have any previously approved witnesses to present to the Tribunal?

Personal Representative: No, Ma'am.

Tribunal President: All unclassified evidence having been provided to this Tribunal, this concludes this Tribunal session.

The open session of the Tribunal was re-opened on 25 September 2004 at 1617 hours. The Detainee was notified by the Tribunal of the reasons his request for witnesses was denied by the Tribunal President.

Tribunal President: Jamil, it is our responsibility to explain to you why your request for a witness was denied. I'd like to do that now. Your request for Detainee #906 to testify that the electronic device was his - we found that not to be relevant in determining whether you were an enemy combatant or not.

Detainee: What?

Tribunal President: Your request for the witness to testify that the money that you were receiving or giving was for money to the poor. That accusation was taken away, or that item on the unclassified document was taken away off the document. Do you understand?

Detainee: Yes. They erased that one. The whole accusation?

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Detainee: Yes. They erased that one. The whole accusation?

Tribunal President: The one in reference to financial.....

Detainee: Okay, and the battery charger?

Tribunal President: No, that remains on there. That accusation, or that item, is still on the unclassified summary. However, we did not determine it to help us make a decision on whether you are an enemy combatant. We did not use that information. We did not think it to be relevant.

Detainee: Okay, so what are my accusations? An enemy combatant? That would mean I fought or had a weapon.

Tribunal President: That was not considered. We did not know if it was a weapon or not. It was told to us that it was an electronic device. That is why we asked you questions about it. It was not important whom it belonged to in determining if you are an enemy combatant or not. Do you understand?

Detainee: No, I do not. I swear to God. I am sorry but that is the truth.

Tribunal Member: Okay, maybe I can ask for the assistance of my Tribunal Members.

Detainee: Can you clarify this for me. This sounds very strange.

Tribunal Member: When the request was presented to us, you indicated that your associate would be able to testify that the device was his.

Detainee: Yes.

Tribunal Member: The allegation read that you were attempting to board an airplane with an electronic device. So if you were boarding with the device, it did not matter who it belonged to. But now we have your testimony, where you have said that the device was not in your luggage but in someone else's. So we will consider that. Does that answer your question?

Detainee: Yes. Now I understand. Thank you very much.

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Tribunal President: Now that all unclassified evidence has been provided to the Tribunal, this concludes this Tribunal session.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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Summarized Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the Detainee answered, "Yes."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process the detainee answered, "No."

Tribunal President: Do you wish to make a statement to the Tribunal?

Detainee: Is traveling to Pakistan is that an accusation?

Tribunal President: It is a statement of what we believe or a fact of the events leading up to your capture.

Detainee: I left before the attacks.

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

Detainee: What do you mean by oath?

Tribunal President: Oath is a promise that you will tell the truth.

Detainee: What I told you was the truth. I don't understand the connection having traveled from Konduz to a small village of Konduz.

Tribunal President: That is what we are here for today. To decide whether that is relevant or not relevant.

Detainee: The village that I traveled to was where I did my medical training.

Tribunal President: Do you have anything else you would like to tell us?

Detainee: No.

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

Personal Representative: Yes sir. I can go over the things we discussed yesterday, if you would like.

Detainee: Go ahead.

Personal Representative: Concerning 3.a., (The detainee is associated with the Taliban), he said yes.

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Detainee: Yes.

Personal Representative: 3.a.1, (The detainee admitted he decided, on his own, to travel to Afghanistan and assist the Taliban based on the Fatwas that were issued.)

Detainee: Yes.

Personal Representative: 3.a.2, (The detainee used primary travel routes to get to Afghanistan – Sa'naa, YM; Karachi, PK; Dubai, UAE; Quetta, PK; Kandahar, AF; Kabul, AF; and Konduz, AF.) The list route is correct.

Detainee: Yes.

Personal Representative: 3.b., (The detainee engaged in hostilities against the United States or its coalition partners.)

Detainee: That's incorrect.

Personal Representative: 3.b.1, (Once in Konduz, the detainee traveled to Khoja Khar, AF.)

Detainee: Yes

Personal Representative: 3.b.1. Continued, (He trained on the AK-47 about one week and then moved onto the front line to fight against the Northern Alliance.)

Detainee: That is true but I went there just to visit.

Personal Representative: He told me he was not sure what the Northern Alliance was.

Detainee: The Northern Alliance is Afghanis.

Personal Representative: Four months after the 9/11 attacks he was in prison.

Detainee: Yes I was.

Personal Representative: From the 9/11 attacks until the time he was in prison, he was in Konduz working in a medical clinic.

Detainee: Yes.

Personal Representative: 3.b.2, (The detainee first aid training and helped maintain a special clinic for the Arabs.)

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Detainee: It was not just for Arabs it was for all the people.

Personal Representative: He said this medical training occurred before the 9/11 attacks.

Detainee: I took the training in Yemen. Anything I didn't learn in Yemen, I picked it up in Afghanistan.

Personal Representative: He said he knew how to fire the AK-47 from Yemen.

Detainee: Yes.

Personal Representative: He shot the AK-47 one-month before the 9/11 attacks.

Detainee: Yes.

Personal Representative: Khoja Khar is in Konduz.

Detainee: Yes it is.

Personal Representative: The clinic there was run by Arabs primarily to help Afghans.

Detainee: The clinic was run by students.

Tribunal President: Is there anything you would like to add to that statement?

Detainee: No.

Summarized Answers in Response to Questions by the Tribunal Members

Q. When you were in Afghanistan who gave you the medical training that you didn't already have?

A. I don't want to talk about all of this, you can take a copy from my file and all the information is in there.

Tribunal President: You have the right not to answer any question, but we are giving you the opportunity to tell us your story, first hand, rather than us reading it in some one else's' report. Would you like to answer questions for us?

Detainee? No, I don't want to.

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AUTHENTICATION

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



Col, USAF

Tribunal President

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Summarized Unsworn Detainee Statement

The Personal Representative made the following statement on behalf of the Detainee, who was absent during the proceedings.

The Personal Representative states that these are comments from the Detainees notes of 15 September 2004 in response to his unclassified summary of evidence and the Detainee asked him to dictate these notes at the Tribunal..

- ***3(a) The detainee is affiliated with al Qaeda.***

Detainee stated he is not a member of al Qaeda or any other terrorist organization and he did not see or know any other members. He also did not hear of al Qaeda until his arrival to Guantanamo Bay.

- ***3(a)(1) The detainee voluntarily traveled from Yemen to Quetta, Pakistan where he stayed in a Taliban house in March 2001. The detainee admitted to seeing an assault weapon in the Taliban house during his stay.***

Detainee states that he was deceived to travel to Quetta, Pakistan. He was told that he would be a teacher of the Koran in Afghanistan and make much money. He was told that he had to go to a Taliban house to gain entry to Afghanistan because they were the ruling government. He did not see any weapons while in that house.

- ***3(a)(2) The detainee voluntarily traveled from Quetta, Pakistan to Kandahar, Afghanistan in March 2001.***

Detainee stated that he wanted to go back to Yemen, but was not allowed. He then decided that he would travel to Afghanistan and then try other means to get back to Yemen.

- ***3(a)(3) The detainee traveled between Khost and Kabul, Afghanistan to teach the Koran from march 2001 to December 2001.***

Detainee stated this is true.

- ***3(a)(4) The detainee visited Usama Bin Laden's home in Kandahar, Afghanistan.***

Detainee never knew or has never seen or visited Usama Bin Laden.

- *3(a)(5) The detainee is associated with two suspects in the USS Cole bombing in Yemen.*

Detainee denies any knowledge of the USS Cole bombing.

- *3(b) The detainee participated in military operations against the coalition.*

Detainee denies any participation in any military operations.

- *3(b)(1) The detainee attended advanced training at Tarnak Farm near Kandahar, Afghanistan.*

Detainee never heard of Tarnak Farm and denies receiving any advanced training.

- *3(b)(2) The detainee fled Afghanistan subsequent to the fall of Kabul. The detainee was caught and detained in the Tora Bora region.*

When the Taliban government fell, he was in Kabul. His friend, who was Afghani, told him to leave because the people in Kabul hate Arabs. He left and went to Khost and then headed to Pakistan. He turned himself in to Pakistan authorities so that they could take him to the Yemeni Embassy. He was not arrested. Pakistan authorities told US forces that he was al-Qaeda. He was turned over to the US forces in Peshawar, Pakistan and US forces took him to Kandahar, AF.

The Detainee asks that the Tribunal make their decision with the truth and that all the information in his unclassified summary are lies and fabricated to hold him. He went to Pakistan and Afghanistan to teach the Koran and he taught the Koran in Yemen before he left for Pakistan. The Detainee states that he is innocent and that the whole world is his witness.

AUTHENTICATION

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



Colonel, U.S. Marine Corps
President, CSRT

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Detainee Uthman Abdul Rahim Mohammed Uthman dictated the following notes on 15 Sept 2004 in response to his unclassified summary of evidence and has ask me to dictate these notes at the Tribunal.

Para 3a – Detainee stated that he is not a member of Al-Qaeda or any other terrorist organization and he did not see or know any other members. He also did not hear of Al-Qaeda until his arrival to Guantanamo Bay.

Para 3a1 – Detainee states that he was deceived to travel to Quetta, PK. He was told that he would be a teacher of the Quran in Afghanistan and make much money. He was told that he had to go to a Taliban house to gain entry to AF because they were the ruling government. He did not see any weapons while in that house.

Para 3a2 – Detainee stated that he wanted to go back to Yemen but was not allowed. He then decided that he would travel to Afghanistan and then try other means to get back to Yemen.

Para 3a3 - True

Para 3a4 – Detainee never knew or has seen or visited Usama Bin Ladin

Para 3a5 – Detainee denies any knowledge of the USS Cole bombing

Para 3b – Detainee denies any participation in any military operations

Para 3b1 – Detainee never heard of Trnak Farm and denies receiving any advanced training.

Para 3b2 – When the Taliban government fell, he was in Kabul. His friend, who was Afghani, told him to leave because the people in Kabul hate Arabs. He left and went to Khost and then headed to Pakistan. He turned himself in to Pakistan authorities so that they could take him to the Yemeni Embassy. He was not arrested. But Pakistan authorities told US Forces that he was Al-Qaeda. He was turned over to US Forces in Peshawar PK and US Forces took him to Kandahar AF.

The Detainee asks that the Tribunal make their decision with the Truth and that all the information in his unclassified summary are lies and fabricated to hold him. He went to Pakistan and Afghanistan to teach the Quran and he taught the Quran in Yemen before he left for Pakistan. The Detainee states that he is innocent and that the whole world is his witness.



Major, USAF

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EXHIBIT D-b

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Summarized Detainee Statement

Tribunal President: Musad Omar, you may now present any evidence you have to the Tribunal and you have the assistance of your Personal Representative in doing so. Do you want to present evidence to the Tribunal?

Detainee: I would like to clarify some things.

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

Detainee: Yes.

Tribunal President: Recorder will you please give him the oath?

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

Tribunal President: Musad Omar, you may begin.

Personal Representative: Madam President, the Detainee and I have talked previously. I have prepared questions so I can refresh the Detainee's memory.

Tribunal President: Okay. Would the Detainee like to respond to the unclassified summary in his hand first; or would the Detainee like the Personal Representative's questions first?

Detainee: Whatever you prefer. It is not a problem.

Tribunal President: The Detainee will go first, and then respond to the questions.

A translated copy of the unclassified summary was handed to the Detainee for reference. The Detainee proceeded to address each point on the Unclassified Summary of Evidence in order. To put his comments into context, the points from the Unclassified Summary of Evidence are provided below in italics. The detainee's comments follow each point (summarized).

3.a. The detainee is an Al Qaida fighter.

1. In July 2001, Al Mudwani was recruited by two men, who identified themselves as former mujahid, to go to Afghanistan and train to fight.

Detainee: First of all, the two men did not identify themselves to me. One of the men lived in the same neighborhood as me. The other man was his friend. They would talk to me, but they never said they were in Afghanistan before. In regards to going to Afghanistan to train how to fight; I went to see and observe the situation. Not for the

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purpose of fighting. There was no fighting going on at that time. I left before the events of 9/11.

2. *The detainee stated that he stayed at the Daftar Al-Taliban guesthouse for four hours, prior to going to Kandahar, where he stayed at the Madafat Al-Nibras guesthouse, where he was fed and given new clothes.*

Detainee: I was only given food. I was not given any new clothes. I was traveling so I already had my clothes with me. It was impossible that I would have gone there without clothes.

3. *The detainee stated after seven (7) days at the guesthouse in Kandahar, he traveled to the Al Farouq training camp, a known Taliban training camp.*

Detainee: This allegation is correct.

4. *The detainee stated that he received training on the Kalashnikov rifle, pistol, BEKA, RPG, and the Magnoona. The detainee stated that he only trained for twenty-five (25) days because the camp closed due to the U.S. bombing campaign.*

Detainee: I trained on the Kalashnikov rifle, that is correct. The pistol, that is correct. The BEKA, that is correct. The RPG, I just saw it. I never received training on the RPG. The Magnoona is the Kalashnikov. The only difference is that it has an additional metal piece. Like a base that you rest the Kalashnikov on. It has an extra piece on there. I only received training for about twenty to twenty five days. There was no bombing. It was the first day of the events of 9/11. The people at the camp said if anyone wanted to leave, we were free to leave. There might be problems and there might be bombings; so if you don't want any problems, just go. If you want to stay, then you can stay. I did not want any problems, so I just left because my objective was not to fight when I went there.

5. *The detainee stated that he saw Usama Bin Laden (UBL) several times and at various training facilities during his time in Afghanistan and last saw Bin Laden in Khowst about a month before the fall of Kabul.*

Detainee: I only saw Bin Laden once at that training camp. Bin Laden was visiting the training camp and I saw Bin Laden from about thirty, to forty, to fifty meters away. He was very far away. The second time I saw Bin Laden was in Khowst during the events. Bin Laden would pass through all the villages to see the people. Bin Laden also passed in front of us, but there were many people present at the time. They were all civilians. The various training camps is not correct. I received training in one place only. It is correct that I did see Bin Laden a second time in Khowst. It was one month before Kabul fell, that was correct. All and all, it was only two times I saw Bin Laden.

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3.b. *The detainee participated in military operations against the coalition.*

Detainee: This is not true. I did not even go to any of the front lines.

1. *The detainee stated that he left Al Farouq on a military bus with twenty-five (25) other students from Al Farouq and went to Kabul.*

Detainee: I left the training camp on a regular truck from Al Farouq to Kandahar. It was about a two or three hour ride. Then I completed the trip from Kandahar to Kabul on a civilian bus. Twenty-five of my friends were in the same group. They were not Taliban.

2. *The detainee stated he went to Kabul and three days after his arrival, Kabul fell.*

Detainee: This is correct.

3. *After the fall of Kabul, the detainee went to Pakistan where he was captured by the Pakistani police, after a shoot-out, on September 11, 2002.*

Detainee: The police stormed the house around eight o'clock in the morning. There were two apartments. The apartment I was in, there was no shoot-out or any resistance. But we surrendered immediately. They have my fingerprints. You can look at them if you want to verify this. The Pakistani police, they have everything. The Pakistani police thanked the group I was in the apartment with for not resisting and they never charged us with anything. The resistance was in the apartment next to us in the same building. That is all I have.

Tribunal President: Musab Omar, does that complete your statement?

Detainee: Yes, that is what I have.

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

Personal Representative: Yes, Ma'am. I do, but not quite as many because the detainee has covered most of our conversation. When you were in Yemen prior to leaving, you were given a ticket to go and observe the cultural conditions under the Taliban in Afghanistan.

Detainee: Yes, under the Taliban - how the Muslims were doing under the Taliban. There were rumors that these were evil or bad people. In Islam, you cannot judge another Muslim unless you see it with your own eyes. As for myself, the expenses were covered by someone that was doing good. So I said I did not have anything to lose. I planned to go for one month. I had a visa for one month only. I wanted to see how things were and come back home. When the events happened, I still had a few days left on the visa. The roads were closed and I could not leave.

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Personal Representative: When you left camp and went to Kabul for three days, what was the purpose for being in Kabul?

Detainee: Kandahar was very crowded. So I thought I would go to Kabul because it was bigger. After I left Kabul, I was going to go to Khowst because it was close to the border. My intention was to leave for Pakistan. Khowst was safer. There was no fighting going on there.

Personal Representative: While in Pakistan, you were waiting in the apartment with several others. What were you waiting for?

Detainee: We were waiting for things to calm down and to become stable. We were also waiting for the Pakistani police to stop searching everywhere because our visas had expired. We could not move around legally. So we stayed until we could maybe get to the Yemeni embassy, but we couldn't. The police were searching everyone. There was no negotiation or talking. They would just arrest people. So we stayed at the apartment until we could find the closest opportunity. We did not even have enough money for the tickets.

Personal Representative: I have no further questions.

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: Are you an Al Qaida fighter?

Detainee: No, never. I never followed them, I never stood on the lines, nothing.

Tribunal Member: When you received weapons training at Al Farouq, who gave the training? Were they Taliban or Al Qaida?

Detainee: Arabs. It had to be Arabs because I do not understand the language of the Taliban.

Tribunal Member: Do you know what the association of the Arabs were?

Detainee: They said they were just people that were giving the training. They did not have any affiliation with anyone. Talk about politics was forbidden in the camp.

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Tribunal Member: If you were going to Afghanistan to observe the cultural conditions, why then get all the training on weapons?

Detainee: When I got to Afghanistan, I was with Pakistani people. They moved me to Dafter Al-Taliban. I did not know the situation. So I went to Dafter Al-Taliban. They took me in, then told me to go to Al-Nibras. They were Taliban. I did not know their language and what they were talking about. So they took me to Al-Nibras. I could not leave. They took my passport, money and everything. They said just sit there. I told them based on what, and they said just sit there. After a week, I kept insisting on asking what was going on and why I was there. We got on a bus and they took us to the camp. They told us that anyone who goes into Afghanistan goes through the camp. Since I was there I had to get the training. There was no fighting, nothing.

Tribunal Member: When you were leaving the Al Farouq camp, the twenty-five people you were with?

Detainee: These were other people who refused to just sit along with me.

Tribunal Member: Okay. Were those people carrying weapons?

Detainee: No.

Tribunal Member: When you turned yourself in to Pakistani police, were there any weapons in your apartment room?

Detainee: The people who resisted had weapons in that apartment.

Tribunal Member: Your room did not have any weapons?

Detainee: My room did not have any weapons.

Tribunal Member: When you were going through Pakistan to go back home, were you doing so on your own accord, or were you following orders from another person?

Detainee: It was me, but I was getting advice from the Pakistanis. I did not know the area and I had no money. So I would ask around and they would help me.

Tribunal Member: The people that you were arrested with in Pakistan, were they all from the Al Farouq camp with you?

Detainee: No, I did not meet them until I went to Pakistan. They were all from Yemen with expired passports. Same situation as mine. The Pakistanis rounded up all the people like me that had issues or problems with their visa. We were all put in one place.

Tribunal Member: Was that before or after they stormed the apartment?

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Detainee: How do you mean?

Tribunal Member: When you went to the apartment where you were staying, did you do that on your own or did the Pakistanis send you to that apartment?

Detainee: I went there on my own. A Pakistani family told me to go to that place.

Tribunal Member: How many people were staying in those two apartments?

Detainee: Five or six people and a Pakistani family.

Tribunal Member: Were any of those people from Al Farouq?

Detainee: No, not at all.

Tribunal Member: Did you have your passport at that time?

Detainee: Yes. I took it from the Pakistani (sic) government.

Tribunal Member: Where and how did you get your passport?

Detainee: The Pakistani police, when they stormed the house they took the passport, money and everything we had.

Tribunal Member: I thought you said earlier when you went to Al Farouq, they took all your papers, money, everything so you couldn't leave?

Detainee: After I left Al Farouq, they gave me everything back. I said that and wrote that down in the interrogations.

Tribunal Member: Who did you stay with in Kabul after leaving Al Farouq?

Detainee: After I left Al Farouq during the bombings, there were places or houses you could go to. Anyone that had a place to stay or hide, I would stay with them.

Tribunal Member: How did you know what houses to go to stay?

Detainee: I went with the group of twenty-five and the driver was asking. The driver knew where to go.

Tribunal Member: When you were in Kabul, did you have a weapon?

Detainee: No.

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Tribunal Member: Did any of the people you were with in Kabul have weapons?

Detainee: We did not stay in Kabul, all of us together. After we got to Kabul all of us got separated. Five went here. Three went there. Everyone just went their own way.

Tribunal Member: Were the houses you stayed in Kabul, were they also housing fighters?

Detainee: No. They were civilian houses of people who were afraid of the bombing.

Tribunal Member: How did you get from Kabul to Pakistan?

Detainee: I went from Kabul to Khowst. To the Pakistani border.

Tribunal Member: How did you travel? What means?

Detainee: Buses.

Tribunal Member: How did you get the money to travel?

Detainee: The bus drivers were helping out the people that needed to go somewhere.

Tribunal Member: Earlier you said all the roads were closed and that was why you could not leave. How were you able to travel on the roads?

Detainee: Inside of Afghanistan. From Kabul to Khowst, Afghanistan, it was internal. We didn't go through official roads, we went through the mountains.

Tribunal Member: Were you on foot going through the mountains?

Detainee: Sometimes with the cars, sometimes with walking.

Tribunal Member: Who were you traveling with when you went through the mountains?

Detainee: A group of Arabs, Afghans, Pakistanis and other people.

Tribunal Member: Was this Tora Bora mountains?

Detainee: No, Khowst. I stated it before in detail. If you would like for me to go more into detail, I will tell you.

Tribunal Member: Yes, please tell me how you got out.

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Detainee: From Khowst to a place called Zurmat. From Zurmat to a place called Bormal (phonetic). After that, a place right on the border, a small village. Then to a place called Bennam (phonetic). This was the first place in Pakistan. That is how I got to Pakistan.

Tribunal Member: How did you know to go to these places?

Detainee: There were Afghanis and Pakistanis helping out people.

Tribunal Member: Were any of these Afghans and Pakistanis fighters?

Detainee: No, no, no. The people were just helpers. They were people who lived there. People who lived in one place would take us to the next place and go back home.

Tribunal Member: Why would these people help you?

Detainee: They were Muslims.

Tribunal Member: Have you always told the same story since you have been detained?

Detainee: I have told the same story from Pakistan to the prison that was underground. The Americans were there underground. Then in Bagram, I said the same thing. And here, after over one hundred interrogations, I have said the same thing. The interrogators thank me.

Tribunal Member: Did you ever carry weapons or fight against the Northern Alliance or the United States?

Detainee: No. I have never fought against Afghans or Americans.

Tribunal President: In your statement, you said the two men who recruited you were friends of yours. Were they members of the Taliban or Al Qaida?

Detainee: No, no, no. They were not friends of mine. One of them lived in the same place I was living. He saw me everyday when I would walk to school. The second guy was the first guy's friend.

Tribunal President: Do you know if those two people that recruited you were members of Al Qaida or Taliban?

Detainee: No. They were against the Al Qaida. They would warn me not to get into anything political.

Tribunal President: Those two men wanted you to go to Afghanistan to view what was going on, to see the new Government? Can you explain that further?

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Detainee: There were rumors coming to Yemen that Afghanistan had a racist Government. It was Muslim by name. They said there were no Muslims except for the people in Afghanistan - that anyone not Afghani was not a Muslim. But those two people said this statement was not true. Afghanistan was fair. That black people like white people - Islam rules all of Afghanistan. Islam ruled over everyone; the poor, the rich, the powerful, the weak. There is poverty and hunger. So the two men told me to go and see the situation and come back and talk to the people - tell them if yes it is true and it is a Muslim place. Then if anyone could offer help to the Afghan people with medical, teaching, learning, with money. Things like that.

Tribunal President: Why was it important for you to go to Afghanistan? What were you going to do there? What did you feel like you were going to do there?

Detainee: I just wanted to go. Curiosity, nothing more. I did not know the results would turn out like this.

Tribunal President: When you received the training on the weapons, were you forced to take the training?

Detainee: They just took me. I did not know anything. I did not know the language. I did not know the people. I did not know anything. Without my passport, or money or my tickets, I could not do anything. So I just did what they wanted so I could get my stuff back. If I went and did not do anything, they may have accused me of spying. So I just took the training on the Kalashnikov and pistols. It seemed normal. We have these things in Yemen. It is not a big deal.

Tribunal President: Why didn't you try to leave before getting to the camp?

Detainee: The camp is away from the city, about two hours in an isolated location. It was between mountains. There were Afghan guards all around. I did not know my way around, I did not know what was going on. I just went where the people were going.

Tribunal President: When it was time for you to leave the camp, did you have to have permission to leave; or did a group of people decide to leave?

Detainee: There was a group that decided to leave and I was one of them.

Tribunal President: Why didn't this group try to leave before they received the training?

Detainee: We thought things were normal and we did not think there was anything going on. Then when the events of September 11th happened, we did not want any problems. So we left. A lot of people stayed.

Tribunal President: How did you support yourself while at the camp or in Kabul?

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Detainee: In the camp, there was food and drinks. Everything was at the camp's expense.

Tribunal President: Okay. When you were not at the camp, how did you support yourself?

Detainee: I had a little bit of money with me from Yemen.

Tribunal President: You said earlier when you went to the camp, your passport and money was taken away from you.

Detainee: They didn't take everything from us. They wouldn't take everything from us. We had a little bit left over or either the guards would give us a little bit back. Some of them did a little bit of good. Some of the people wanted to do good, so they would give some back. The Afghans liked the Arabs, so they would give us a little bit of food, a little bit of money. Families, I mean.

Tribunal President: So the people that gave you money were just Muslims, or were they Taliban, or Al Qaida?

Detainee: No. They were families or farmers or something like that. When we walked from Kabul to Khowst, they could tell who was an Arab. They recognized strangers not from the area. So they would give a little something to help. Sometimes you would go to buy something and the person would tell you that you did not have to pay for it - just go.

Tribunal President: When you were arrested in Pakistan, how did you get from the Pakistani police to the Americans?

Detainee: The Pakistani authorities handed us over to the Americans.

Tribunal President: Did you ever have the opportunity to talk with Usama Bin Laden?

Detainee: No. I did not want to and I never had a chance to. Not just anyone got to meet him. Just someone who was important, not just anyone can go in and just meet with Bin Laden. You had to be asked for, or someone important.

Tribunal President: Did you know anyone who met Usama Bin Laden?

Detainee: No. All the people there were like me. All the people I knew were amateurs. Nothing like Bin Laden.

Tribunal President: How did you find out about the events of 9/11?

Detainee: Of course we were going to hear about it. We are in an age where we have the news and reports.

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Tribunal President: Did someone tell you about it? Did you read about it? Did you hear about it on the radio?

Detainee: No. People talked in the camp. People had radios.

Tribunal President: Was this after the events or before the events that you heard about it?

Detainee: After.

Tribunal President: Musab Omar, do you have any other evidence to present to the Tribunal?

Detainee: That is all I have. Other than I really hope you look at the evidence with consideration and fairness. I am sure of my statement and what I have said. I challenge anyone else to come and tell me anything else about what I have said.

Tribunal President: Personal Representative, do you have any other evidence or does the Detainee have any previously approved witnesses to present to the Tribunal?

Personal Representative: No, Ma'am.

Tribunal President: All unclassified evidence having been provided to this Tribunal, this concludes this Tribunal session.

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

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001011

Summarized Unsworn Detainee Statement

Personal Representative read the Detainee's response to the Unclassified Summary to the Tribunal.

3a. The Detainee associated with known members of the Taliban.

Personal Representative: This is false; when I came to Afghanistan, I was not concerned with the Taliban. My only concern was to teach the kids.

3a1. The Detainee traveled from his home in Yemen to Afghanistan via Pakistan in March 2001.

Personal Representative: Essentially this is true; it was the beginning of the spring in 2001.

3a2. The Detainee admitted to giving his passport to a person known by him to be a member of the Taliban.

Personal Representative: Yes, I did, I had doubts about whether he was or was not Taliban. But I did give it to him for safekeeping. The way he was talking about things, like documents being stolen in Afghanistan, it made me concerned and he looked trustworthy. He initiated the conversation, but did not ask for the passport; I offered it to him for safekeeping.

3a3. The Detainee admitted to lodging at an official Taliban residence in Kabul, with a Taliban representative he met in Quetta, Pakistan.

Personal Representative: I met Abdul Malik in Quetta, he is the one who took me from Pakistan to Afghanistan. I paid him money to go to Afghanistan because he had a car. We had no problems at the border. They just looked into the car and said to go, they did not check for passports. We crossed the border to Kandahar and stayed at a house that I assumed was his. The next day we went to Kabul, where Malik said between you and me, it's goodbye. He did take me to a house and introduced me to Abderrahman, and told me, "He is a good man that will take care of you." He would take care of me because a good Muslim will take care of a brother in need. This is how I came to this house. He assigned me to a little room in the house. I saw a man in the house and he had a weapon, others outside had weapons also. I assumed they were Taliban. I did not have a weapon and I was not allowed to go into any of the other rooms. I did not participate in any activities with the other men.

3b. The Detainee was a member of al-Qaida.

Personal Representative: No, this is not correct at all. I don't belong to any organizations; I like to do my own thing.

3b1. The Detainee was observed carrying an AK-47 and wearing fatigues at UBL's private airport in Kandahar, Afghanistan.

Personal Representative: All false. I never went to an airport in Afghanistan, and I never wore a uniform of any kind. I never saw any Taliban in a uniform. I did assume that anyone who wore the headscarf and carried a weapon was a Taliban.

3b2. The Detainee was captured by Pakistani Forces as part of an organized group of 30 Mujahadeen after the fall of Tora Bora.

Personal Representative: I was captured by myself and later they brought in a lot of other people. This is how I ended up in a large group.

Personal Representative and Recorder had no questions for the Detainee. Tribunal Members questioned the Detainee.

Tribunal Member: Is it true that you began your journey from your home in Yemen?

Detainee: Yes.

Tribunal Member: What was the reason you chose to go to Afghanistan?

Detainee: I met a man whose name was Muhammed Abduhma. He told me about this thing. And I accepted it. Is that what you wanted?

Tribunal Member: What was it that he told you about?

Detainee: He told me about Afghanistan. And going and teaching the kids Koran and teach reading, he will be rewarded for it by God.

Tribunal Member: How did you finance your travel from Yemen to Afghanistan?

Detainee: This man is the one who financed my trip. He gave me the plane ticket and everything.

Tribunal Member: How long were you planning to stay in Afghanistan?

Detainee: Just one year and go back.

Tribunal Member: While you were in Afghanistan, what military training did you receive?

Detainee: I didn't train.

Tribunal Member: Did you carry a Kalashnikov rifle for protection?

Detainee: No, I did not.

Tribunal Member: Isn't it true that most people in Afghanistan carry Kalishnokov rifles?

Detainee: I didn't see everybody carrying, some people not everybody.

Tribunal Member: What about the people you were with?

Detainee: You mean whom?

Tribunal Member: Whomever you associated with in Afghanistan.

Detainee: I didn't have too much contact with people.

Tribunal Member: So you taught the Koran to children for a year while you were in Afghanistan?

Detainee: I didn't stay for a year, I stayed less than a year. But yes I was teaching the kids.

Tribunal Member: Where was it that you did that?

Detainee: In Kabul and after that in Khost.

Tribunal Member: How was it that you organized your teaching of the Koran?

Detainee: Its simple, you get 4 or 5 students, I read to them and try to make them focus and they repeat after me. And they repeat as many times as needed for the student in front of me to understand. That was my method with them

Tribunal Member: So from March to November or December, this is what you did?

Detainee: Yes.

Tribunal Member: Please explain the circumstances of your capture.

Detainee: A gentlemen named Ahmed took me to Khost. He introduced me to a man whose name is Obaidullah. And I stayed there at the mosque of Khost for a few days. I

stayed my period there for three or four months in the mosque there. Ahmed left and Obaidullah came and told me, "If you stay here, the Afghani people may kill you." So I asked him what is the solution and he said the only way is to leave Afghanistan. So I asked him where is Abdul Ahmed because my passport was with him? He said he didn't know where he is but it is better for me to leave now. And he said to go to the Yemen embassy in Pakistan and the Yemen embassy will take me back to Yemen. We went to the border and he told me when we got there, you get off here and go across first and we will meet you on the other side. Abdul Ahmed didn't show up, the guy with my passport. They kept going and they found some military. One of the soldiers pointed a weapon toward me. The officer in charge was mad at him. So the Pakistani officer took me and said don't be mad at him, we are Muslim, we will take care of you. He asked me about my parents. He said you are a kid, you are going to go to the Yemen embassy and you shouldn't have any problems getting back to Yemen. After that they took me to jail and there were lots of people. They put handcuffs on our hands. First we walked about 2 miles with no handcuffs but when we got to the jail and they put us inside they put handcuffs on me. That's all what happened and then they took us to another prison. The second prison we went to had a lot of Pakistani in there. It was just like [a] normal prison, with people, guards and for all other crimes. There were some criminals and some nice people also. After that they delivered me that night.

Tribunal Member: Did you have any money or weapons with you at the time you were captured?

Detainee: No, I didn't have any money, I had very, very little money.

Tribunal Member: Did you have any weapons?

Detainee: No, I didn't have any weapons.

Tribunal Member: You said you were captured by yourself or were you with a group of people?

Detainee: No I was by myself and then they brought other people.

Tribunal Member: How long have you been here at Guantanamo?

Detainee: My number is 032 and I have been here 2 years and I think a month.

Tribunal Member: How old are you now?

Detainee: I really don't know exactly, I think I am 20 or 21. We don't document the date exactly. I think I was born 12-12-83.

Tribunal Member: The children you were teaching the Koran to, did they speak your same language or did you have to have help?

Detainee: Yes, it was difficult. I had some problems but as you know, Koran has to be taught in Arabic. Because you find people who do not speak Arabic but they memorize the Koran by heart.

Tribunal President: Faruq Ali Ahmed, do you have any more information to present to this tribunal?

Detainee: Statements, like what?

Tribunal President: Any other statements you would like to make before this tribunal?

Detainee: I didn't understand.

Tribunal President: Is there anything else you would like this tribunal to know?

Detainee: I don't have anything.

The Tribunal has no more questions. Personal Representative has a question.

Personal Representative: When you studied school in Yemen, what was it you studied and what level did you go to?

Detainee: I reached high school. I studied Shariat. I knew the Koran by heart. But I studied and I didn't have a chance to study [more].

Tribunal President: With all unclassified evidence having been presented to this tribunal, this concludes this tribunal session.

AUTHENTICATION

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



Colonel, U.S. Marine Corps
Tribunal President

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RESPONSE TO ALLEGATIONS
DETAINEE 032

3. a. This is false, when I came to Afghanistan; I was not concerned with the Taliban. My only concern was to teach the kids.

1. Essentially this is true; it was the beginning of the spring in 2001.

2. Yes, I did, I had doubts about whether he was or was not Taliban. But I did give it to him for safekeeping. The way he was talking about things, like documents being stolen in Afghanistan, it made me concerned and he looked trustworthy. He initiated the conversation, but did not ask for the passport, I offered it to him for safekeeping.

3. I met Abdul Malik in Quetta, he is the one who took me from Pakistan to Afghanistan. I paid him money to go to Afghanistan because he had a car. We had no problems at the border. They just looked into the car and said to go, they did not check for passports. We crossed the border to Kandahar and stayed at a house that I assumed was his. The next day we went to Kabul, where Malik said between you and me, its goodbye. He did take me to a house and introduce me to Abderrahman, and told me "he is a good man that will take care of you". He would take care of me because a good Muslim will take care of a brother in need. This is how I came to this house. He assigned me to a little room in the house. I saw a man in the house and he had a weapon, others outside had weapons also. I assumed they were Taliban. I did not have a weapon and I was not allowed to go into any of the other rooms. I did not participate in any activities with the other men.

b. No, this is not correct at all. I don't belong to any organizations; I like to do my own thing.

1. All false, I never went to an airport in Afghanistan, and I never wore a uniform of any kind. I never saw any Taliban in a uniform. I did assume that anyone who wore the headscarf and carried a weapon was a Taliban.

2. I was captured by myself and later they brought in a lot of other people. This is how I ended up in a large group.

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Exhibit D-6