

Summarized Sworn Detainee Statement

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

The Tribunal President then offered the Muslim oath to the Detainee. The Tribunal President also confirmed that the Detainee had requested three witnesses, all of which were available for the Tribunal. The Detainee and all three witnesses took the Muslim oath before testifying.

The Recorder read all unclassified evidence in full to the Tribunal. The Personal Representative then stated each point of unclassified evidence separately to allow the Detainee the opportunity to respond, and included previously attained statements from earlier meetings.

Personal Representative: [To the Detainee] Would you like me to read each statement and your answer, or just your statement?

Detainee: If you could state them one by one, so I could answer each one.

Personal Representative: (3.a.1) *The Detainee is a member of the Taliban.*

Detainee: I was not a member of the Taliban; I did not join them, I did not work for them.

Personal Representative: Do you want to tell them [indicating the Tribunal Members] what you do?

Detainee: I was young when my father died, and I was a farmer. I had my brothers and sisters to take care of. I worked hard to provide them with food.

Personal Representative: Would you like to say anything else about the first point?

Detainee: Any question you ask, I will give my perspective.

Personal Representative: (3.a.2) *The Detainee admitted that he was supposed to participate in an ambush against U.S. forces.*

Detainee: No, sir. I did not participate on any attack on the Americans. I did not have the plan; I was a poor person. I was going to the bazaar to buy oil for my tractor. I was arrested by the U.S. forces. They did not tell me anything, but they arrested us.

Personal Representative: You made a longer statement; would you like me to read it?

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Detainee: Yes, yes.

Personal Representative: [from notes taken during her earlier interview with the detainee] "I never admitted this. I never said I was planning an ambush. There was never an ambush in the first place. Let me tell you why I was captured. My uncle was a tractor driver for someone else and maintained the tractor. He and I decided to go to town to buy oil and filters. We noticed that behind us, American forces were approaching, so we moved to the side of the road to avoid them."

Detainee: Yes. We were on the road, so when we saw them coming, we left the road, and they arrested us.

Personal Representative: [continued from his notes] "We were told earlier by local translators that people should avoid U.S. forces."

Detainee: Yes. When U.S. forces came, the translators said don't get close to American forces. We went to the side, and they captured us.

Personal Representative: [continued] "So we went to the side of the road, to wait for them to pass. When the U.S. forces approached us with weapons drawn and told us not to move. They handcuffed us and put us in the car. Then they brought us to Kandahar for six days, and to Bagram about three months before they brought us to Cuba." That was the end of the testimony given; would you like to add anything else?

Detainee: No, sir.

Personal Representative: *(3.a.3) The Detainee admitted that he threw his weapon down a well and hid in a hole.* "After they arrested us, they didn't take us into the car immediately, they brought us to a linguist. There was a 20-foot deep well about 15 feet away."

Detainee: We were 20 meters from the well. A little water was inside the well.

Personal Representative: [continued] "I never told the linguist I threw a weapon in the well. I never had a weapon. Since the well was only a foot deep, they would've been able to see if there was a weapon at the bottom."

Detainee: I told them to look in the well. You could see if the weapon was there.

Personal Representative: [continued] "When I went to Bagram, the interrogator told me a soldier said I threw a weapon in the well. If there was a weapon in the well, why didn't they raise the weapon?" That's all you told me, if you want to add anything, please do.

Detainee: This was all my statements to my Personal Representative. When they captured me in Kandahar, they said nothing about the weapon in the well until I got to Bagram. I told them that if I threw the weapon in the well, they should be able to find it.

ISN# 963
Enclosure (3)
Page 2 of 12

UNCLASSIFIED//FOUO

001902

Personal Representative: (3.a.4) *The Detainee was captured on the afternoon of 10 February 2003, along with his uncle, by U.S. personnel. Do you have anything else to add?*

Detainee: No, I don't have any other statement to make. I just want the Tribunal to be fair.

Tribunal President: We understand.

The Tribunal President then took a brief recess to allow the first of three witnesses to be brought in to the room. The Tribunal President then verified this was a witness requested by the Detainee, and requested the witness identify himself.

Tribunal President: (to Witness # 1) We require you to take the Muslim oath, and that you tell the truth today.

Witness: Yes, I will swear upon the 4 books; the Bible, Koran, etc. Life is passing by, and I swear to tell the truth.

Detainee: (addressing the Witness) Do you know me?

Witness: Yes, yes. You are from the village of Lejhain, and I knew your father and family.

Detainee: Did I work with the Taliban?

Witness: No.

Detainee: What did I do in my village?

Witness: You were farming. You were working in construction to help your brothers and sisters.

Detainee: Did I have a plan to attack the Americans?

Witness: No.

Detainee: Did I have a weapon to throw into the well?

Witness: No, he did not have a weapon.

The Tribunal President then opened up the floor to questions from the Personal Representative, Recorder and Tribunal Members, once he confirmed that the Detainee had no more questions of the Witness.

Tribunal Member: (to Detainee) Is this your uncle?

Detainee: No. It's the other one.

Tribunal Member: (to Witness) How long have you known the Detainee?

Witness: Since he was very young.

Tribunal Member: Were you captured on the same day as the Detainee?

Witness: Yes.

Tribunal Member: What happened when you were captured?

Witness: It was night. I was watering my land; it was late and cold. I did not go home, and spent the night over there. The next morning, I went to the river to take a shower. When I came out, someone asked me who I was, and asked me to raise up my hands. When I raised my hands, I had a chewing tobacco can, a mirror and some small scissors I was using to trim my beard that fell out of my pockets. They arrested me and took me to an American compound. At that time, I didn't see him because I was blindfolded. I had an enemy working as a translator for U.S. forces. An American gentleman said to let me go because I was an old man. After that, my young boy approached them and asked them to let me go, but they did not let me go and took me to Kandahar. In Kandahar, I saw the Detainee and another person I knew. I have 10 kids I left behind, and I'm very happy for the Tribunal because somebody will listen to me.

Tribunal Member: Thank you for that information.

Witness: God bless you and take you to heaven. I have 10 kids; they don't have anything to eat. I've been here, and nobody asks about me. I am happy to have you a board; please listen. You helped us a lot at the times of the Russians. You helped us by giving us weapons. We defeated them. I have so many kids left behind. We like the Americans, and believe in your book, the Bible. We like them (the Americans).

Tribunal President: I have one question. (to the Witness) Do you know if the Detainee owned a weapon?

Witness: No, sir. I swear to Allah he had no weapon, and was not a member of the Taliban. We lived far from the city in a village by the mountains.

Tribunal President: Thank you.

Witness: God bless you. I am very happy to see you so I could open up my heart.

Tribunal President: Thank you.

The Tribunal President then confirmed there were no more questions from the Tribunal panel, and confirmed the Detainee had no more questions for this Witness. At this time, the Tribunal took a short recess to allow for the second Witness to be brought into the room.

After the second witness was brought into the room, the Tribunal President verified this was a witness requested by the Detainee, and requested the witness identify himself.

Tribunal President: (to Witness # 2) We require the Witness to tell the truth and take the Muslim oath. Will you take the Muslim oath?

Witness: Yes.

The Recorder then administered the Muslim oath. The Tribunal President then permitted the Detainee the opportunity to question his Witness.

Detainee: (to the Witness) Do you know me?

Witness: Yes.

Detainee: Where am I from?

Witness: From Leijhay.

Detainee: What was my job?

Witness: You were a farmer; you were working on your farm.

Detainee: Was I with the Taliban?

Witness: No.

Detainee: Did I have a plan to attack American forces?

Witness: No.

Detainee: The day of my capture, did I have a weapon to throw in the well?

Witness: No.

Tribunal President: (to the Detainee) Does that conclude your questions?

Detainee: Yes, sir. Those were my questions.

The Tribunal President then asked the Personal Representative if he had any questions for the Witness.

Personal Representative: (to the Witness) Do you want to describe how the Detainee was captured?

Witness: Yes, sir. I could. We were in our house in our village until mid-day. It was the night of the eve of the Muslim holiday of the Ramadan. I wanted to go buy a filter for the tractor. Also, I wanted to go buy rice to eat. At that time, America captured us and brought us here until today.

Tribunal President: Any more details about the capture?

Witness: Yes, sir. I am a poor person, and he is a poor person. We don't have any enemies, so they handed us to you; probably someone sold us to you. I drive someone else's tractor; we are poor people.

Personal Representative: Do you want to describe in detail how you were approached by the Americans, and how you were on the side of the road?

Witness: Yes, sir. I will. It was cold in our area. It was morning and I woke up to pray, and saw American cars going to our village. I heard them firing. We stayed home until mid-day. American cars and aircraft were in the area. We stayed until we wanted to go to the bazaar. We were on our way, and the American forces approached us. There was a well, which we take water for plants and crops. We went to the side of the road, and they asked what we were doing there, and I said I am carrying the key for my tractor. They captured us and took us to Kandahar for 5, 6, 7 or 8 days, I don't recall. Then we went to Kabul. The interrogator there asked me if I knew about rocket launchers, and I said no, I am poor, and don't know about rocket launchers. The other day my personal representative told me that if you were recognized as an enemy combatant you would go to a review board. This means I would have to be involved in fighting. You brought me here, but I did not fight. I told my personal representative that I never fired on any Americans. Now I am here for two years, and nobody knows why.

The Tribunal President then offered the Recorder the opportunity to question the Detainee's Witness.

Recorder: (to the Witness) When you were captured, were you hiding from them (American forces), or did you step to the side of the road where they could see you?

Witness: No, Miss. Hiding would be in a house or a cave. I was in the middle of the road, so I did not hide.

Recorder: So you just stepped off the road; they could see you when they were coming?

Witness: Yes, Miss. If I was hiding, they wouldn't find me. They found me, so they saw me. They got out of their cars and pointed the guns at me and arrested me.

Recorder: What were you wearing when you were captured?

Witness: It was brownish, traditional clothing. It wasn't completely black, but close to black color.

Recorder: You said it was cold; did you have a coat on?

Witness: No I didn't have a jacket or coat, but a traditional shawl I wear. It is same color as darkish-brown.

Recorder: Did the Detainee have a jacket?

Witness: Yes, Miss.

Recorder: What color was it?

Witness: It was old coat in a faded greenish color. I don't recall exactly.

Recorder: Were there any types of markings or symbols on the jacket?

Witness: I did not pay too much attention. It probably had, but you should ask him this question.

Recorder: How many people were arrested with you that day?

Witness: It was 30-40 people captured from my village, but they let them go. My nephew and I were captured at the same time and place.

Recorder: And they were the only ones?

Witness: Yes, Miss. We were two captured and brought somewhere else. Then after, they took us to their base. We saw a lot of people from our village there, but they let them go, and kept us.

The Tribunal President then asked any Tribunal Members if they had any questions of the Witness.

Q: Did you have any type of weapon when you were captured?

A: No, sir. We are poor people; we did not have a weapon.

Q: Are you a member of Taliban or have you ever worked for the Taliban?

A: No, sir. I was a tractor driver for someone else. I was a poor person working on my land. The Taliban didn't bother us, and we didn't bother them. We were not working for them.

Q: When you were captured, did you hear the soldiers talking about the well?

A: Yes, sir. The translator was there and 10-12 American soldiers. They asked about the well and what it was for. I said we take a machine to pump the water out of the well for our land, and put it on our crops.

Q: Did they ask you about throwing a gun down the well?

A: No, sir. At that time, they didn't tell me that, nor did they tell me in Kandahar. In Bagram, they told me about the well.

The Tribunal President then confirmed the Detainee had no further questions of this witness, and took another recess to allow the third and final Witness to be brought in.

The Tribunal President then verified the third witness was a witness requested by the Detainee, and requested the witness identify himself.

The third Witness took the Muslim oath as administered by the Recorder.

The Detainee then began to question the Witness.

Detainee: Do you know me?

Witness: Yes, I know you.

Detainee: Where am I from?

Witness: Leihjay.

Detainee: What was my job?

Witness: You were a farmer, busy farming.

Detainee: Was I with the Taliban?

Witness: No, no. You were taking care of your orphan brothers.

Detainee: Did I have a plan to attack the Americans?

Witness: No, no. You would not harm a bird. You would not hurt the Americans.

Detainee: Did I have a weapon so I could throw it in the well?

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Witness: No, no. You did not have a weapon in your house; even to harm a bird. You were busy feeding your orphans. (addressing the Tribunal) Could I tell you a few things about this boy?

Tribunal President: Sure.

Witness: I know his name. His mother and father are deceased. He was working very hard to take care of his brother and sister. He is a poor individual. He did not fight or anything. His father died when he was young, and after that, his mother died. He was feeding his brothers and sisters by working for one individual one day, and another day, another individual. We were happy for the Americans because monthly we were receiving one bag of wheat. If we found someone against the Americans, we would've handed them over because we believe the Americans came to build us roads; they were there to help us.

The Tribunal President then opened up the floor to questions of the Witness from other Tribunal Members.

Recorder: When were you captured?

Witness: It was early in the morning, and I was sick. I had goat's skin on me to make me sweat. You must wear the goat skin for ten days at home. I went outside with the goat skin on me to take in the sun. I was outside when they came and searched me. I had a chewing tobacco can with me, and they arrested me and brought me over.

Recorder: What do you do in your country for a living?

Witness: I was a farmer. I was farming for an individual that couldn't walk. I had a six year-old boy and I wanted to feed him.

Recorder: You said the Detainee was a poor person; are you also a poor person?

Witness: Yes, Miss. I am a very poor person. I still owe money from the time of President Raboni. Still I have not paid my debt.

Recorder: When you were captured, did you have money on you?

Witness: I had four thousand Afghani bills in my pocket from the time of President Raboni. Then I had around 30-40 of Karzai's money in my pocket at time I was arrested. I can only use Karzai's money now.

Recorder: Are you a member of the Taliban?

Witness: No. I did not spend one night with them. I did not spend one night outside my house because my mother is old, and I have to take care of my son.

ISN# 963
Enclosure (3)
Page 9 of 12

UNCLASSIFIED//FOUO

001909

UNCLASSIFIED//FOUO

Recorder: Did you know of any attacks against the Americans?

Witness: No. I swear to Allah, I did not see, know or hear. I told the American forces when I was captured that I wouldn't throw anything in front of your way. I would not fight. The only thing I would like to add is that our current governor in our area was a soldier, and he gathered up all of our weapons.

The Tribunal President then permitted questions of the Witness from the Tribunal Panel.

Tribunal Member: How long have you known Abdul?

Witness: We are from the same village, the same area. We grew up together; I saw him day and night. He is my cousin on my father's side; like a cousin from the mother's side. If he lied, I would tell you the truth about him.

The Tribunal President asked the Detainee if he had any follow up questions for the witness.

Detainee: No, sir, I don't have any other questions. All I want you to know that I was a poor person working hard. I don't have any more questions.

The Tribunal President then recessed the hearing to allow the Witness to be taken out. Upon return, the Tribunal President and a Tribunal Member asked the Detainee several follow-up questions.

Tribunal President: Do you have any other further statements for us after the Witnesses?

Detainee: My statement is that I was poor. I had 6-7 orphans to take care of. I did not do anything wrong against you. Please, help me go home.

Tribunal Member: When you were on the road and saw American forces coming, how far off the road did you go?

Detainee: I cannot recall exactly, but it was around 10 steps away from the main road. They told us not to move, and they arrested us.

Tribunal Member: Did you hide, or were you just standing there?

Detainee: No, sir. They were behind us. Prior to that time, the translators said when ever you see the Americans, go to a corner, and do not block their way. When they came up behind us, we went about 10 steps to the right. They told us to sit down and don't move. They searched us, and they captured us.

Tribunal Member: So you didn't even sit down until they told you to sit down?

ISN# 963
Enclosure (3)
Page 10 of 12

UNCLASSIFIED//FOUO

001910

UNCLASSIFIED//FOUO

Detainee: Yes. We did not sit until they said, don't move.

Tribunal Member: And it was just you and your uncle?

Detainee: Yes, my uncle and I were going to the bazaar when they captured us.

Tribunal Member: And you had no weapon with you?

Detainee: No, no. We did not even have a small knife in our pockets. We were going to the bazaar when they captured us.

Tribunal Member: Did they say anything about the well there, or did they not say anything until you got to Bagram?

Detainee: No, no. We were away from the well when they captured us. There were 6-7 soldiers with a translator that took us another 20 steps away to some other soldiers by the well. The translator asked me at that time what the well was for. Then they asked me over there. The translator asked about the well, and I told them that we had a drought and there was not enough water for crops. Then we dug the well, and made a machine to take the water out. It was a newly dug well. I told them that. There was only a small amount of water in the well. When they captured us, they put us in cars and then an aircraft to Kandahar. I was in Kandahar for 6,7 or 8 nights, and they didn't ask about the well or weapons there. Over there, they didn't tell me I had a weapon or attacking Americans or any wells. In Bagram, they asked if I had a gun and threw it in the well. They told me in Bagram. I told them, no. My uncle and I were poor people. We were not involved in any fight, and that we were going to the bazaar to get something to eat. This is my story.

Tribunal Member: So when you were standing by the well, they didn't say anything about weapons?

Detainee: No, no, no. They did not ask me about any weapon thrown in the well, and didn't ask me any question until I was taken. If you were to drop a pen in the water, you could see it.

Tribunal Member: What crops do you grow?

Detainee: All year round, we have wheat and corn. But for our family, we plant tomatoes, melons, watermelons and vegetables.

Tribunal President: The place that you were captured; was it your land or your well?

Detainee: Yes, sir. I was caught in my own village and was not far from home.

Tribunal President: You mentioned the translators and linguists a number of times. Did you know or recognize any of them personally?

ISN# 963
Enclosure (3)
Page 11 of 12

UNCLASSIFIED//FOUO

001911

UNCLASSIFIED//FOUO

Detainee: No, I didn't know any of the translators. But when they were translating I realized that they were translating for other individuals.

The Tribunal President then thanked the Detainee for his testimony, and asked if the Detainee had any more evidence for the Tribunal.

Detainee: I have nothing else to say. I request from the Tribunal that I am a poor person, and that I had three witnesses that told you I was not involved in any kind of hostilities. My request is that you will find this out about me.

Tribunal President: We'll promise to do our best in reviewing all the information in our determination.

Detainee: Yes, sir. Please help to free me to go and feed my 6-7 orphans; to work hard and give them food. I don't know what they have to eat. This would be a good help from you.

The Tribunal President thanked the Detainee for his testimony, and explained the rest of the Tribunal process. The Tribunal President then adjourned the open session.

AUTHENTICATION

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



_____, Colonel, U.S. Air Force

Tribunal President

ISN# 963
Enclosure (3)
Page 12 of 12

UNCLASSIFIED//FOUO

001912

Summarized Unsworn Detainee Statement

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

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

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

Tribunal President stated that the detainee wants to participate and has requested one witness.

Tribunal President: Mohammed Ahmed Salam, I understand that you had requested a witness for today. The witness' name is Amed Amhed Salam, your brother. Is that correct?

Detainee: Yes.

Tribunal President: The Personal Representative informed me of this request earlier. I determined that your request was relevant. More specifically, the witness would provide relevant testimony for this tribunal. I requested the United States government attempt to locate your brother by contacting the Yemen government. The United States did contact the Yemen government, on or about 9 November 2004, about a month ago. As of today's date, the Yemen government has not responded to our request for assistance. Without the cooperation of the Yemen government, as Tribunal President I am forced to find the witness is not reasonably available. Mohammed Ahmed Salam, you may now present any evidence to the tribunal.

Detainee: I will not present, but my Personal Representative will speak on my behalf. I will just speak. I hear from the other young men in the prison, that these courts are lies, not just, that's the reason I am here, but I don't believe that, I want to speak for myself. Is there any evidence here, I have heard that there's classified evidence. So if you can say it now during this session, it would be preferable.

Tribunal President: You do have the assistance of the Personal Representative and I understand that you have discussed your statements with him earlier. And I do understand that the Personal Representative will read that statement to us today. And I want to make sure that the statement that he's providing, about previous discussions you had with him, are your statements. And as we continue, and the Personal Representative provides that statement, we would appreciate that you would either affirm that is what you said or, if you have any additional information that would be very helpful to this tribunal.

Detainee: I trust in the Personal Representative.

Tribunal President: Understood. I would like to ask if you would like to make your statement under oath, understanding that the statement that we will be receiving is through your Personal Representative. (To the translator) Was that difficult? Should I restate that?

UNCLASSIFIED/FOUO

Translator: Please.

Tribunal President: I would like to know if you would like to make your statement under oath. Would you like to make your statement under oath?

Detainee: Is he asking? There is no need for an oath.

Tribunal President: Just want to make sure you understand that you have the decision and the option to make your statement under oath to us today. An oath is a promise to tell the truth.

Detainee: I am telling the truth. If you are really going to say that I am innocent, to find that I'm innocent, then I will swear. If you are going to try me justly then I will take an oath right now.

Tribunal President: Recorder, please administer the appropriate oath.

The Detainee did take the Muslim oath.

Tribunal President: Before you begin, Personal Representative, there's one remark I would like to make to the detainee. You heard us make a promise to you, and to the tribunal that we do our best earlier. The three of us here have not seen any of your files. We may see classified and other information later, as the recorder has asked. And remembering our promise, we will consider all that information and make a decision if you had been classified as an enemy combatant. Regarding our definition of an enemy combatant, you were informed of that earlier this year. Any information that you can provide us today, if you wish, is very helpful to us as we consider your statement and what we may see later.

Detainee: Is that it?

Tribunal President: Yes, I just wanted you to be aware why we are here, and what we're going to do.

Detainee: I would like to make something clear to you.

Tribunal President: Please.

Detainee: When I first came here, when I hear the words all the words you said, I was very pleased with it. And when I heard the oath it seems that you'd be fair and just in my case. But, when I heard that there's classified statements, I knew that you would not be just in my case. If there is any classified evidence or classified statements present, then present them now so that I may answer them. If there is any trial, in any place, they present all the evidence so that the accused has the opportunity to answer. Thank you.

Tribunal President: Let me clarify that this is not a trial where we are looking for guilt or innocence. We are not judges. This is an administrative hearing, and we are going to determine if administratively, the government has classified you as an enemy combatant. And the

UNCLASSIFIED/FOUO

classification of information is a government decision. We do not have the ability to change that decision to allow you to see some information. And as you heard our promise we will study all information and determine if the government has administratively classified you properly. I understand your comment regarding seeing all the information as an accused. We appreciate your understanding that this may look like a criminal justice proceeding, but it is not. What makes this different than all the other chances you've had to talk to government individuals... Here you have been told what we think classifies you as an enemy combatant. You are free to choose what you want to tell us, we can't compel you or force you to tell us anything, and it is your choice. It was your choice to come here today. So, as I said before, this is the first chance to tell us anything, you would like to tell us about why the government considers you an enemy combatant. Would you like your personal representative to proceed with your previous statements?

Detainee: Yes.

Tribunal President: Thank you.

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

3.a. The detainee is associated with forces that are engaged in hostilities against the United States and its coalition partners.

3.a.1. The detainee stated that he traveled from Yemen to Pakistan in May 2001.

Personal Representative: (Reads from notes taken from previous interview with Detainee) He doesn't recall the exact date, but it was to get medical treatment. He had the correct passport and documents for his travel. If his brother were here, his brother would collaborate those facts.

3.a.2. The Jama'at al-Tabligh organization paid for his travel to Pakistan.

Personal Representative: (Reads from notes taken from previous interview with Detainee) This organization did not pay for his trip; a generous person paid for it. His brother would collaborate if he were here, that he was not involved with this organization.

3.a.3. Jama'at al-Tabligh, a Pakistani-based-Islamic-missionary organization, is being used as a cover to mask travel and activities of terrorists, including members of al Qaida.

Personal Representative: (Reads from notes taken from previous interview with Detainee) He has nothing to do with this organization. His brother knows that he never joined any organization whatsoever. His brother knows that he does not know terrorists, that he has never been in jail, and has the best reputation in Yemen. His brother also knows, that he doesn't like problems, and always stayed away from trouble.

UNCLASSIFIED/FOUO

Personal Representative stated the detainee addressed items 3.a.4. through 3.a.7. in the statement below.

3.a.4. The detainee stayed at the al Qaida "Nibras" guesthouse in the early summer of 2001.

3.a.5. The detainee stayed at the "Hasan" guesthouse in Kandahar, Afghanistan in late summer of 2001.

3.a.6. The "Hasan" guesthouse is where trained Mujahidin reside.

3.a.7. The detainee was at al Farouq during the summer of 2001.

Personal Representative: (Reads from notes taken from previous interview with Detainee) About the statement concerning that he stayed in Nibras and Hasan guesthouses in Afghanistan, and Al Farouq, he will swear under oath that this unclassified summary of evidence is the first time he heard of staying at the guesthouses. He never went to those places. He never went to Afghanistan and has never been to al Farouq. In fact item one accuses him of going to Pakistan and item eight states that he was arrested in Pakistan, so how could he be in Afghanistan.

Detainee: I have proof to this, with what the Personal Representative just said. Regarding what you said about me being in Afghanistan, the last point, I would like you to go to everyone who is here in this prison, who has been to Afghanistan at that time, and ask them if they have ever seen me in Afghanistan. This is the proof.

3.a.8. The detainee was arrested in Pakistan by Pakistani police during a house raid.

Personal Representative: (Reads from notes taken from previous interview with Detainee) That is correct. But to this day he still does not know why he they arrested him. That is all.

Personal Representative asks detainee: Did you have any corrections to make or anything additional?

Detainee: No, that was very good, very good. Only the last point that I mentioned, I wasn't able to say that to you in the last meeting.

The Personal Representative and the Recorder had no further questions.

Tribunal Members' questions

Q. What medical treatment did you go to Pakistan for?

A. I went through a surgical procedure in Yemen to remove some skin from my nose. I was told that the operation was not a success and that new skin had grown instead, so I went to Pakistan.

Q. Will you give us the name of the generous person who paid for your travel?

A. Really, I don't remember.

Q. Do you remember the date when you were picked up, arrested in Pakistan? Or how long were you in Pakistan before you were arrested?

UNCLASSIFIED/FOUO

A. Maybe eight or nine months.

Q. Why did you go for an operation and then stayed for eight or nine months?

A. You have it in the interrogation.

Q. Was anybody else at the house before you were arrested?

A. Yes.

Q. Were they arrested too?

A. Yes.

Q. Are they here in prison, or did they get let go, do you know?

A. Yes, they are in prison here.

Q. Can you give us their names?

A. No. You have everything in the file.

Tribunal Member: We don't know what the file says. The recorder chooses what we can see. We can't go look in a file and start peeking at what people may have said about you. Maybe I can guess what's in the file. There may be a statement from somebody who said, I saw him in Afghanistan. And, then, I have to decide. You said you weren't in Afghanistan, he said you were. I don't know your culture very well, but the reason why my fellow member asked you about who paid is because, in our culture people just don't step up and say, I'll pay for this trip for you.

Detainee: In our culture, in Islam, there is such a thing.

Tribunal Member: That is what I wanted to ask you, is that unusual for someone in your culture to pay, and you just explained that.

Detainee: Yes, this is something very normal. Indeed, it is an obligation for any Muslim who is rich to pay for someone who is poor. And, if I were going to mention the name, I can mention it, but I will not mention it.

Q.: Again, culture question. Is it common for people to go to Pakistan for medical treatment?

A.: Very normal.

Q.: Are you married?

A.: No.

Q.: How old are you?

A.: Possibly, now, maybe twenty-four.

Q. While you were in Pakistan for that eight months did you ever work?

A. No.

UNCLASSIFIED/FOUO

Q. During that eight-month period did you have a close friend that could verify that you were in Pakistan?

A. Yes, there is.

Q. Can you give me the name?

A. His name is Abdul Rahamen. I don't remember his full name.

Q. Are you a Mujahidin fighter?

A. No.

Q. Where did you receive the medical treatment in Pakistan?

A. Karachi.

Q. Do you remember the name of the medical clinic or hospital?

A. No, I don't remember. If it was in Arabic I would've remembered, but I don't.

Q. Where were you staying while you being treated, at the clinic or at in another place?

A. In another place.

Q. When you were arrested by the Pakistani police, did you have your passport and other papers?

A. Yes.

Q. Did you get your nose fixed or treated properly?

A. I got the treatment but, I did not undergo the operation, until now, the skin is there.

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

Detainee: I have a question. If there is classified evidence is to be presented, it should be presented in front of me, so I can see it, and make sure it is correct. Is that possible, or no?

Tribunal President: I understand your request, and it is not possible as it is not releasable to you. And I stated earlier that we do not have the authority to change that classification. Your Personal Representative has seen the information and will bring any information that we need to know about your possible improper classification, he will bring it our attention.

Detainee: Yes, but maybe this evidence is a lie.

Tribunal President: Yes, I understand your concern.

Tribunal President continues on with the remainder of the process instructions and adjourns the tribunal.

UNCLASSIFIED/FOUO

AUTHENTICATION

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



Colonel, USAF

Tribunal President

UNCLASSIFIED / FOUO

Summarized Sworn 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."

[As the recorder was reading the unclassified summary the detainee interrupted.]

Detainee: Can I ask a question about what he just said?

Tribunal President: There will be a time shortly for you to provide answers to each.

Detainee: Are you going to read all the accusations first and then I can answer?

Tribunal President: Yes.

[After the Tribunal President spoke about the detainee's request for witnesses and mentioned their names, the detainee interrupted.]

Detainee: I requested some one else.

Tribunal Member: What was the name of the other person?

Detainee: One is Sabet and the other is Abdu Supur.

Tribunal President: I have his number is ISN 275. Do you understand him by his number?

Detainee: Yes.

Tribunal President: He may have another name.

Detainee: Yes. Okay I don't know his secret name.

Tribunal President: The other witness is ISN 289, is that who you asked for?

Detainee: Yes.

Tribunal President: Would you like to provide statements on the unclassified evidence first and then witnesses or would you like the witnesses to provide information first?

Detainee: I feel that I have been waiting; I don't want the witnesses to wait. But I have a question.

Tribunal President: That's fine.

UNCLASSIFIED / FOUO

Detainee: They accuse me of being an enemy combatant. I want you to explain this. Nothing I have said or my actions in the past do not make me an enemy combatant.

Tribunal President: The unclassified summary that was provided to you is the reason for your classification as an enemy combatant. You may want to provide statements or answers on each point.

Detainee: They claim that I am an enemy combatant but I was not captured in a combat zone. I was captured in Pakistan.

Tribunal President: Before you make any more statements, would like to make your statements under oath?

Detainee: Yes taking the oath is not a big deal. We have to tell the truth about everything.

Tribunal President: Recorder please administer the oath.

Tribunal President: Please repeat everything he says for your oath.

[After the Recorder began citing the oath to the Detainee, the detainee interrupted.]

Detainee: It is hard to memorize and say those things. I am not afraid to take the oath. I will take the oath. I believe in god. God is watching me and I am telling you the truth.

Tribunal President: That is fine with us.

Tribunal President: Again, it sounds like you would like to address all the unclassified evidence first. If you would like to proceed you may. Your Personal Representative may assist you.

Detainee: I will answer the first question myself.

Tribunal President: That is fine.

Personal Representative: I think the detainee thinks you are going to ask him questions now.

Tribunal President: Not questions, he may speak.

Personal Representative: But if I may, tell him that we discussed each point and I have his statement and I can read them out loud and then he can add more. Just as we talked about.

Detainee: We did not discuss much about the accusation of me as an enemy combatant.

UNCLASSIFIED / FOUO

Personal Representative: I believe he is stuck on this definition of an enemy combatant.

Tribunal President: I believe he is.

Tribunal Member: Why don't you just let him say what he wants to?

Tribunal President: Yes, you can describe why you don't think you are an enemy combatant.

Personal Representative: Would you like me to read him the definition of an enemy combatant again?

Detainee: The first one said that I belonged to the Islamic Movement.

Translator: Do you want me to explain the definition of an enemy combatant?

Tribunal President: First answer his question. His question was that he belonged to the East Turkestan Islamic Movement. Answer that question, which is yes that is what the government thinks.

Translator: He wants to know what the definition of an enemy combatant is; do you want me to read this to him?

Tribunal President: Actually I will provide that and you can translate.

[The Tribunal President read the definition of an enemy combatant.]

Detainee: Do you have witnesses that say I supported Al-Qaida or the Taliban or say that I fought with the Al-Qaida against the U.S. or coalition forces?

Tribunal President: First piece of evidence. You were part of the East Turkestan Islamic Movement and that group was part of or tied to Al-Qaida.

Detainee: You say the Islamic Movement, which one are you talking about. I have no knowledge about those Islamic Movements. You are telling me they are tied to Al-Qaida.

Tribunal President: The government information says that you admitted to belonging to East Turkestan Islamic Movement.

Detainee: This is the first time I have ever heard of them. I was never asked during interrogations. I never told them I was a member.

Personal Representative: Do you want me to read what you told me about that point?

Detainee: Yes.

ISN #219
Enclosure (3)
Page 3 of 16

UNCLASSIFIED / FOUO

001922

UNCLASSIFIED / FOUO

Personal Representative: 3.a.1. (The detainee admits belonging to the East Turkestan Islamic Movement (ETIM).) I do not know about the ETIM. I am not a member of the ETIM. I left Uzbekistan were I was a businessman. I left because my business selling fabrics and animal skins went down and I had a lot of debt to pay. There was no opportunity to pay back my debts, so I left Uzbekistan and went to Afghanistan.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: I have something to say. The East Turkestan Islamic Movement, I had never heard of them and I don't know them. Because I didn't check the organizations background, I don't really care what they do. I was a businessman and looking out for my own interest. That's why I met with them but I didn't care what they did.

Tribunal President: You met with them?

Detainee: Yes.

Personal Representative: In the next statement you talk about them and make this clear. Do you want me to read it to the Tribunal?

Detainee: In number two I didn't talk about that.

Personal Representative: Yes you do, you start to talk about the people.

Detainee: I have forgot. I am not finished with the first one.

Tribunal President: That is fine; tell us what you want about this first point.

Detainee: How can I be a member of an organization that I have never heard of? They accuse me of this. I have never heard of them or was I a member.

Tribunal President: That is why we are here. Do you have any other statements you would like to make on any of the unclassified evidence?

Detainee: Yes.

Tribunal President: What else would you like to tell us?

Personal Representative: Are you ready to move on to number two?

Tribunal President: And to help you remember what number two is I'll read it. The detainee participated in military operations against the coalition.

Detainee: I have a paper in my pocket can you take it out for me?

ISN #219
Enclosure (3)
Page 4 of 16

UNCLASSIFIED / FOUO

001923

UNCLASSIFIED / FOUO

Personal Representative: Sure.

Detainee: Can you read number two?

Personal Representative: I will read 3.a.2. first. (ETIM has ties to Al-Qaida and the Taliban.)

Detainee: Which one is b, the second one can you read it for me?

Tribunal President: Okay, he is asking for you to read b.

Personal Representative: Does he want me to skip two, because we spoke about two.

Tribunal President: He asked for b, read him b.

Tribunal President: Repeat your question please.

Detainee: I am confused now.

Tribunal Member: I have a suggestion. Everybody look at your papers. Cross off all the numbers and letters. Ask him if he wants to talk about "ETIM has ties to Al-Qaida and the Taliban" or has he said everything he wanted to say about that?

Detainee: I don't care that the East Turkestan Islamic Movement has ties to Al-Qaida or Taliban or America, it doesn't interest me.

Personal Representative: Now would you like me to repeat what you said in our meeting?

Detainee: Yes.

Personal Representative: 3.a.2. (ETIM has ties to Al-Qaida and the Taliban.) I met with some Uighur people in Afghanistan in Kabul. I was looking for some money to start a carpet or possibly an animal skins business. They told me I would have to work for them to earn a monthly salary. I went to the market to buy food products for the people and also clothing. I did not stay there long, I did not live with those people, I would get money from them, go get what they wanted and leave. I did not know what these people did. I didn't know if they were ETIM or associated with the Al-Qaida or Taliban. I only knew about the Taliban government from being in Afghanistan. But never heard of the Al-Qaida until I got here to Cuba.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: I want to think about it.

UNCLASSIFIED / FOUO

Detainee: Are you all writing down everything?

Tribunal President: So we can remember what you say.

Detainee: Thank you.

Tribunal President: And we record so we can go back and help ourselves understand what you have told us.

Detainee: Thank you.

Detainee: I can't think of anything.

Personal Representative: I recommend that we continue on and address these accusations for the record.

Detainee: Can you wait a minute?

Detainee: We can go to the next one.

Personal Representative: 3.b.1. (The detainee received training in an Al-Qaida sponsored camp two hours North or Northwest of Jalalabad, Afghanistan in 2001.) I was worrying about how to conduct business, making a living. I remember once or twice bringing food to Uighur people to a place outside of Jalalabad. I never stayed there long and never saw any military training.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: Are they saying that I was training at the camp provided by Al-Qaida?

Tribunal President: That's what this information says you did. You were trained and I am interpreting it that you received military training in a camp.

Detainee: I didn't know this place. I just brought the food for them once or twice. I never trained there. If I wanted the training I would get it to fight against the Chinese Government. America has never hurt my family or my nationality, why would I train to go against the U.S. Government? I had no plan for my family or my nation to fight against Chinese Government. The only thing on my mind was the business. I had no plan to train. Throughout history the American Government never hurt my country. We had heard about America but just the name. I never knew what they looked like. The first time I saw an American was in Kandahar in prison. They never did anything bad to me. How could I take training to go against those people?

Tribunal President: The next part is about travel.

UNCLASSIFIED / FOUO

Personal Representative: 3.b.2. (The detainee traveled to the mountain training camp in Tora Bora and fled when U.S. forces began bombing that location.) I was in Jalalabad when the fighting began. I felt I should go with the Uighur people to the mountains. A different place from where I was bringing food. It was not a training camp we stayed in old houses. The bombing began either before or after we arrived, then I left the mountains. I didn't know what Tora Bora was or meant. I left the mountains to go to Pakistan. I passed the border and the people treated me nice and fed me. They told me they would take me to the city. We left in the middle of the night and traveled to some place where there were different people. There was a big block door and I was told I would be interrogated. When they interrogated me I was afraid I would be sent back to Turkistan where I owed money. So I told them I was from Afghanistan. They took me to another place, a prison in Pakistan for fifteen days. Different people other than Pakistanis took my picture and asked me questions. They then took me to another cell with other Arabs and all of us were turned over to the Americans.

Personal Representative: Do you want to say more about this or move on to the next one?

Detainee: Are all the mountains in Afghanistan called Tora Bora?

Tribunal President: I don't know. I think Tora Bora is a place, not all mountains, a part of the mountains.

Detainee: If they call all the mountains in Afghanistan Tora Bora, I have no objections to that statement because I just walked through the mountains to Pakistan. If a specific mountain is called Tora Bora, then I didn't know this. Is all the mountains called Tora Bora or just part of the mountains?

Tribunal President: Traveling is not a concern of ours. Going to a military training camp in Afghanistan is a concern. And your previous statement was, you never went to a camp, is that correct?

Detainee: Yes.

Personal Representative: 3.b.3. (The detainee carried a weapon while guarding an Al-Qaida safe house in Jalalabad.)

Detainee: Do you have a witness or proof?

Tribunal President: Not now. Not during this session. All we know is this [referring to the Unclassified Summary of the Evidence].

Personal Representative: He said this point is not true. He never carried a weapon or guarded a house in Jalalabad. I was trying to do business in Jalalabad. I never guarded a house or received weapons training.

UNCLASSIFIED / FOUO

Detainee: Shouldn't a guard be fully trained and know how to use the weapons?

Tribunal president: That would make sense to us.

Detainee: I was just a businessman, how could I be qualified as a guard? If I wanted to be a guard or guarding a house, I would want to know who is in there. I didn't guard any house.

Tribunal President: Does the Personal Representative have any additional information?

Personal Representative: Sir that is all he covered with me.

Tribunal Member: Your Personal Representative told us a lot of information. Was it accurate and do you want us to consider it?

Detainee: Yes.

Detainee: About the first accusation were they accused me of being an enemy combatant. What kind of evidence do you have?

Tribunal President: I would like you to review your notes to see if we have answered all your questions so far.

Detainee: When you accuse me as an enemy combatant. Do you have any evidence? And I have a question for you?

Tribunal President: We have provided you all the evidence that we can at this time. We are here to look at all the evidence and determine that. You have all the information you may see now. We will see more information later but you are not permitted to see it. Do you understand?

Detainee: Why can't I be at that session?

Tribunal President: Because of our national security and our authority does not permit us to provide that to you.

Detainee: If this is a court, I should be able to defend myself. I am innocent.

Tribunal President: This is not a criminal court. This is an administrative government review. We are independent, we are checking to ensure the information supports the government's decision that you are an enemy combatant. That is our job. Have you concluded or finished providing us the information you wanted on the unclassified summary?

Detainee: There is something I would like to talk about.

UNCLASSIFIED / FOUO

Tribunal President: Okay. I would like to remind you that you have called two witnesses to support what you told us before.

Detainee: You accused me of being an enemy combatant. Did you get me from a combat zone or from another country, Pakistan?

Tribunal President: It doesn't matter in our definition. Location of the capture is not part of our definition.

Detainee: There should be a connection between location and capture.

Tribunal Member: To help you understand a little bit more. Before we walked in here today we didn't know anything about your case. The government says that you are an enemy combatant. We think you are going to say you are not an enemy combatant. The Recorder gives us evidence and you give us evidence. We will look at all the evidence and decide whether you should be an enemy combatant or not. We might look at the evidence and say you were caught in Pakistan and therefore you may not be an enemy combatant. Or we might say that you are an enemy combatant. We don't know yet because we haven't looked at all the evidence. So, the best thing you can do this morning is tell us why you feel you are not an enemy combatant. And then we will look at everything and make a decision.

Detainee: I am asking this because did you catch me in a combat zone or in Pakistan. I am defending myself.

Tribunal President: We will consider that.

Detainee: You didn't catch me in a combat zone in Afghanistan. When I was captured I didn't have any weapons or any medal or wood that could be used as a weapon.

Tribunal President: We will consider that.

Detainee: When you captured me I didn't have any identification as a soldier. The Pakistan soldiers captured me and turned me over to you. American soldiers did not capture me, Pakistani soldiers did. I do not have a plan to fight against the U.S. or your coalition forces. The reason I left Afghanistan has nothing to do with the U.S. You said I admitted that I was a member of the East Turkestan Islamic Movement. I have never been a member of any organization. The Uighur people I met were not members of the East Turkestan Islamic Movement. There were only a few of them and I never heard them talk about being a part of any organization. I would have refused to be a part of the organization because I have a lot of debts to pay.

You say that I participated in operations against the U.S. and their coalition forces. I was just a small businessman. How could I have done this? America never hurt me, why would I join against them. If I wanted military training it would have been to fight the

UNCLASSIFIED / FOUO

Chinese Government. There have never been problems between the Americans and the Uighurs we support America.

You say that I was guarding an Al-Qaida house. What is Al-Qaida? Are they a government? I had never heard of them until I was interrogated. I didn't guard their house I am not qualified. I have never been trained. I don't have the same culture, as Al-Qaida and I don't come from their country. They are strangers to me; I wouldn't guard their house.

They say I went to the Tora Bora Mountains to a camp and left when the bombing started. It is true I went to some mountains but I didn't know what they were called. The place I went to was called Urhurl. The Uighurs stayed there. I only heard the name Tora Bora from you.

Tribunal President: Does that conclude your statement?

Detainee: Probably.

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

Personal Representative: No sir.

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

Recorder: No sir.

Tribunal President: Does the board have any questions for the Detainee?

Tribunal Members: We would like to hear what the witnesses have to say first.

Tribunal President: At this time we will take a short recess to bring in the first witness, number 275 first.

[GTMO Detainee #275 was brought into the Tribunal Room]

Tribunal President: Before we begin the witness is asked to affirm that what he says will be the truth, would you take an oath that you will tell the truth?

Witness 275: The information I am given will apply to his case?

Tribunal President: Yes.

Witness 275: What kind of issues?

Tribunal President: The questions will be asked shortly. Will you promise to tell the truth if we ask you a question?

ISN #219
Enclosure (3)
Page 10 of 16

UNCLASSIFIED / FOUO

001929

UNCLASSIFIED / FOUO

Witness 275: Yes.

Tribunal President: Personal Representative, why has the Detainee asked for this witness?

Personal Representative: The Detainee asked for this witness so that he could give a statement that he was not a fighter and that he brought food to the Uighur people.

Witness 275: Yes, I will testify that he was only delivering food.

Tribunal President: Anything else Personal Representative?

Personal Representative: Yes sir when I met with the witness he gave me a statement. Can I ask the witness if I can read it aloud and he can confirm that he said that?

Witness 275: Will he read it for me and then I can verify that it is true or not?

Tribunal President: That is correct.

Witness 275: Yes.

Personal Representative: The witness said he met 219 in a hospital in Jalalabad. They introduced him to me because he was Uighur. He brought me food and brought me to the bathroom and anything I needed when I was sick. Before my hospitalization I did not know him nor I had never seen him.

Personal Representative: Would he like to add more to this statement?

Witness 275: If you ask me questions about his case I will answer. Then if you give me permission I will talk about our cases.

Tribunal President: At this time we are only concerned with 219.

Witness 275: Okay

Tribunal President: Any further comments Personal Representative?

Personal Representative: No sir.

Witness 275: If I don't get permission for that then I have no more.

Tribunal President: Okay. I now want to ask the Detainee if he has any questions for the witness:

Detainee: No.

UNCLASSIFIED / FOUO

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

Recorder: No sir.

Tribunal President: Does the Tribunal have any questions for the witness?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Just so I have this straight, you were sick and the detainee was working at the hospital helping you?

A. He was not an employee for the hospital.

Q. Okay. I was confused about who was sick.

A. I was sick.

Q. Was the time you were in the hospital the only time you had contact with the Detainee?

A. Yes.

Q. You never saw him again until you were here?

A. Until we were captured.

Translator: I would like to explain your question to him.

Tribunal Member: Yes.

A. We left the hospital together and came here together also.

Q. When were you in the hospital? Was it before or after you were detained?

A. Before I was detained.

Q. How long were you in the hospital with the help from the Detainee?

A. About a month.

Q. Did you travel to the mountains together?

A. Yes.

Q. And then into Pakistan?

UNCLASSIFIED / FOUO

A. Yes.

Q. And then you were captured together in Pakistan?

A. Yes, at the same time.

Q. When you were traveling through the mountains on your way to Pakistan, can you tell me what you were doing? Were you just getting away from the fighting or caring for others? What were you doing?

A. We just walked together to Pakistan.

Tribunal President: We will take a short recess to bring in the next witness.

[GTMO Detainee#289 was brought into the Tribunal Room]

Tribunal President: I would like to enter for the record that this witness is known as 289. Is that correct?

Witness 289: Yes.

Tribunal President: I want to confirm with the Detainee that this is the correct witness that he requested.

Detainee: Yes.

Tribunal President: I want to ask the witness if he will take an oath that he will tell the truth?

Witness 289: What do you want me to take an oath about?

Tribunal President: The Detainee wants you to provide testimony or a statement to support his claim.

Witness 289: I will listen and if it is necessary for me to take an oath I will take it.

Tribunal President: We do require you to promise to tell the truth.

Witness 289: I will tell the truth.

Tribunal President: Personal Representative asks the witness the questions.

Personal Representative: The Detainee asked for this witness so that he could give a statement that he was not a fighter and that he brought food to the Uighur people.

UNCLASSIFIED / FOUO

Witness 289: Yes.

Personal Representative: During our meeting the witness did not want to give a specific statement to me but said he would be prepared to answer questions.

Witness 289: That is correct I told him I would answer the questions.

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

Detainee: No.

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

Recorder: No sir.

Tribunal President: Does the Tribunal have any questions for the witness?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Where did you meet the Detainee?

A. He brought food twice to the place where the Uighur people were staying.

Q. Was this in Afghanistan?

A. Yes.

Q. Was this a Uighur camp or village? What sort of place were they staying?

A. The area belonged to some village. It is like a farm area.

Q. Were those two times the only times you saw Detainee 219?

A. Yes.

Q. Did you ever see him with a weapon?

A. No.

Q. He only had food when you saw him?

A. Yes, food.

Q. Did you travel with the Detainee to the mountains?

A. When?

UNCLASSIFIED / FOUO

Q. Anytime?

A. When we went to Pakistan we walked through mountains.

Q. So you were arrested together in Pakistan?

A. Yes.

Tribunal President: We are recessed to have the witness removed.

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

Personal Representative: No sir.

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

Recorder: No sir.

Tribunal President: Does the board have any questions for the Detainee?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Do you know what job the two witnesses did while in Afghanistan?

A. No, I don't know.

Q. Did you ever see either witness with a weapon?

A. No.

Tribunal President: Do you have any other evidence to present to this Tribunal?

Detainee: If it were permitted I would have called my family and requested them to be witnesses.

Tribunal President: I permit witnesses to this Tribunal that have information concerning this evidence. So if your family was with you in Afghanistan I would have permitted it.

Detainee: The reason I asked my family to be witnesses was because they could have proved I was a businessman and have a lot of debts. My parents are probably suffering now because of my debts.

Tribunal President: I appreciate your reasons for leaving your country but this Tribunal is concerned about a different matter.

UNCLASSIFIED / FOUO

Detainee: Every issue is different. But everything starts with the end and is always connected. My parents know why they sent me out. Did they send me to fight or to do business, they know why.

Tribunal President: We will consider that.

[While the Tribunal President was reading the decision instructions the Detainee commented.]

Detainee: I do not want to go back to my country.

Tribunal President: We understand that. Arrangements will be made to find a place where you can go safely if you are determined not to be an enemy combatant.

Detainee: If they say I am an enemy combatant will they look at my case further?

Tribunal President: Yes. I have more instructions to provide.

Detainee: How can you determine me to be a threat?

Tribunal President: That is a question for the next board.

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 covers the signature of the Tribunal President.

Col, USAF

Tribunal President

Summarized Sworn Detainee Statement

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

The Recorder read the pertinent text from the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

The Tribunal President addressed the Detainee Election Form (Exhibit D-A), and informed the Detainee that his witnesses would be available for the Tribunal. The Tribunal President also addressed a comment made by the Detainee to the Personal Representative which is documented on the Detainee Election Form:

Tribunal President: It states that during an interrogation, the Detainee was told if he swore an oath on the Koran, and provided a statement, he'd be set free. (Addressing the Detainee) This is a separate hearing, and any promises, or statements made by an interrogator previously, is different when it comes to taking an oath. That is to say the oath we are offering today, which is your choice to take, is a promise to tell the truth; this would be very helpful to us in understanding your statement.

Detainee: I would like to take the oath, because I told the truth before, and I will tell the truth today.

The Detainee was then administered the Muslim oath by the Recorder.

At this time, the Personal Representative would read the Detainee's responses to the allegations gathered from a previous interview. In addition, the Detainee was permitted the opportunity to respond with additional information as he wished. The Tribunal President encouraged the Detainee to make a statement at this time.

Detainee: Nazim, an elder, a tribe elder, asked all the elders in the village to get together to fight against the Taliban. He told us he talked to Pacha Khan, and that he wanted cooperation from all the villagers. I went to four other villages close to our village and told them he (Nazim) wanted us to be together against the Taliban. At that time, the Taliban government fell down because America came and there was no fight. After a couple days, they bombarded my house. I was at the funeral after some of my family was killed, and Nazim came to me and gave me 30,000 rupees to help rebuild my house, and told me he would try to get money to help me from Pacha Khan. He said when the Americans came in the future, he would try to get more help from them, too. When they bombed my house, there was no fight in the Khost area yet. After a month, I was in my house in my village when the Americans came and captured us. We got captured in my own house; me, my brother and my son. They also captured one of my own villagers in his house. When they came to arrest us, nobody fired on them, or fired on anyone, there was no fight. We never heard any gunshots; they just came to arrest us and we went with them. In my house, I had no kind of radio, and they did not capture us with any such thing in my house. My only request is today is that they destroyed my house, and whatever I did was against the Taliban; Nazim wanted us to get together against them, and there were no Americans in the area

UNCLASSIFIED//FOUO

at the time; my only question is what did I do wrong against the Americans? They captured me, destroyed my house and destroyed my family. I'm sure that you will answer to God one day also, and there will be justice. I will answer each allegation if you want me to answer, and answer questions if you want me to.

Tribunal President: We will have questions for you later.

Personal Representative: Sir, I could go ahead and ask my questions now; and that would fill in some of the holes.

Tribunal President: (to the Personal Representative) If you could, please allow the Detainee to answer all the allegations first.

Personal Representative: The only accusation that he did not address was that Pacha Khan was a renegade commander; he had stated earlier that he didn't know what his actions were to be responsible for.

Detainee: I don't know him personally or ever worked with him; I've only heard of him, now I've been in the prison three years. He worked for the government, and I should not be responsible for that. It's been a month less than three years in the prison. His brother was a minister for the government, and Pacha Khan was a governor of Khost at that time. Nazim gave me 30,000 rupees to help my family from the governor; I never got any money directly from him and never met him personally. After three years, and if he's doing something bad now, why should I be responsible for that? I never saw him.

Personal Representative: One other thing, about the radio, or hand-held receiver.

Detainee: I answered before, none of my family has any such radio, and I have no knowledge of what they are talking about.

Personal Representative: He's covered all the points, sir.

Tribunal President: Does that conclude your statement?

Detainee: Yes.

The Tribunal President thanked the Detainee for his statement, and allowed the Personal Representative to ask questions at this time.

Personal Representative Questions to Detainee

Q: You stated you, your brother and son had no radio; what about the fourth person captured that same evening?

A: I have no knowledge of him being captured with a radio; they can ask him, but I have no knowledge. He was living in the same village with me, but he was captured in his own house.

UNCLASSIFIED//FOUO

ISN# 458
Enclosure (3)
Page 2 of 6

1937

Q: Do you know what Pacha Khan's job was while you were helping Nazim gather people to fight the Taliban?

A: That time with the Taliban, he was in Pakistan; during the last days of the Taliban, Nazim said to get together to fight with him against the Taliban.

The Recorder did not have any questions.

Tribunal Member Questions to Detainee

Q: What occupation did you have? Were you a farmer?

A: Yes, I was a farmer and I had my own land.

Q: Do you have any background in electronics or radios?

A: No. I've never been to school, and I don't know how to read and write. We had a farm and animals.

Q: What about your son or brother? Were they trained in the use of electronics?

A: No; they have no knowledge of anything like that. You can ask them also when they are here.

Q: Do you know of any reason anyone would turn you in?

A: I don't have any knowledge of who gave this information, but in Afghanistan, that's what people are doing. They are causing problems for people they don't like. After the bombardment, I was captured so quickly, I didn't have the time to find out who gave the information to them.

Q: What were you raising on your farm?

A: Wheat and corn.

Q: Your associate, your friend captured in his home at the same time, what was his occupation?

A: He was a laborer; before that he was in Saudi Arabia being a laborer over there.

Q: Have you had any experience in military operations; have you ever been a fighter against the Soviets or had any military training?

A: I never had any knowledge or training; during the time of the Taliban, I went to Pakistan as a refugee, and I never fought against the Russians.

Q: How long had you lived in Afghanistan before the bombing?

A: I didn't count the years, but when there was no fighting in Afghanistan, we came back from Pakistan.

Q: Were you in the house when it was bombed?

A: Yes.

Tribunal President: Do you have any other evidence to present to this Tribunal?

Detainee: No, I don't have anything else; you can ask the Witness questions.

At this time, the Tribunal took a short recess to permit the first Witness to be brought into the hearing. After reconvening, the Tribunal President confirmed the identity of the Witness and that he was the Witness the Detainee requested. The Witness then took the Muslim oath. The Detainee stated he wished the Personal Representative to ask questions on his behalf.

Personal Representative Questions to Witness

Q: Did your brother know Pacha Khan?

A: He heard of his name, but never met with him.

Q: Were you in your brother's house when it was bombed?

A: No, I wasn't in the house at the time it was bombed.

Q: At the time of your capture, you were in your brother's house?

A: Yes; we were all captured together.

Q: Did you see a hand-held radio in the house?

A: No; we did not have anything with us when we were captured.

Q: Did the fourth person captured in your village have a radio in his house that you were aware of?

A: No; I don't know if they captured anything with him in his own house.

Q: Do you know why the American forces would bomb your brother's house?

A: No; we didn't know why, but Americans should know why they bombed our house.

Q: Did your brother have any enemies that would make false statements about him?

A: We did not have any knowledge of such person, but I'm sure that in the country people are doing bad things because of personal differences.

Q: You had stated your brother was assisting the tribal elder in gathering people to fight against the Taliban; is that a true statement?

A: Yes, sir. The village elder asked my brother to go to areas around our village to ask more people to get together against the Taliban.

Q: When did he gather these people?

A: The Taliban was still in government, but it was their last days, so people were trying, at that time, to get together against them.

Q: At that time, was Pacha Khan for or against the U.S. forces?

A: He was with the Americans, and everybody was trying to help the Americans at that time against the Taliban.

UNCLASSIFIED//FOUO

The Tribunal President confirmed the Detainee had no questions of the first Witness, but the Detainee addressed the Tribunal with one question at this time.

Detainee: Did you ask him (the Witness) about all the allegations against me? Did he have knowledge all the evidence against me, so he could bear witness?

Tribunal President: The Witness did not receive the Unclassified Summary about you, but the Personal Representative did address all the major points in his questions of the Witness.

Detainee: OK.

Tribunal Members' Questions to Witness

Q: How many village elders are in your village?

A: There are 6 elders that represent our tribe to outside people or to the government.

Q: Was there any elder in particular that asked for aid in overthrowing the Taliban?

A: Yes, sir. Nazim asked my brother to go and bring more people from other villages to get together against the Taliban.

Q: What was your occupation?

A: I'm a farmer on my own land.

Q: I think your brother was concerned we didn't ask you all the questions; did you have any training in electronics?

A: No way; me and my brother didn't have any kind of education. We both can't read and write. I ask other people favors to read letters from home for me; but no, I received no training on electronics.

Q: As far as the bombing, the Personal Representative made the statement it was Americans that bombed your house; are you certain it was Americans that bombed your house?

A: It was midnight when they bombed from the air; we didn't know who the target was.

Q: Were there any casualties; was anyone killed?

A: Yes, sir. Our own family members, and my brother's wife was killed. I wasn't at the house that day, but when I came the next day, there were casualties in our family in the bombing.

Q: Do you live in the house with your brother?

A: In the same house, yes.

Q: Where were you the night the house was bombed?

A: In Guardez.

Q: When you were arrested with your brother and his son, were there any weapons or any fighting used during that arrest?

UNCLASSIFIED//FOUO

ISN# 458
Enclosure (3)
Page 5 of 6

1940

UNCLASSIFIED//FOUO

A: No; nobody fired any shots, and we had no weapons when we were captured. If we had no weapons in the house, then how can we fire on them? There were not any gunshots, and they just captured us.

Q: One other question; do you know who gave your brother 30,000 rupees to rebuild his home?

A: Nazim, the elder from our tribe in the village. He brought that to my brother, so we don't know where he got it, whether it was from Pacha Khan or the Americans. He gave it to our brother and said it was to rebuild our house, and said he would try to bring more help in the future.

Q: After the Taliban, who was the governor of your area?

A: Pacha Khan.

Tribunal Panel Member: (Directed to the Detainee) The Witness said your wife was killed in the bombing; were you not in the same room with your wife?

Detainee: I was in the same room, and the total people in the house was around 30-40; some were killed and some were injured. I was one that was injured. There are eight rooms in our house, and people were in each room, and six rooms were ruined and two were okay. Some got killed and some survived.

Tribunal President: That concludes this portion of the hearing with the Witness. On behalf of the Tribunal, I would like to thank you for your assistance today. Our questions today addressed your family's loss, and we do have sympathy for this occasion.

Detainee: Thank you for that. There is nothing in my heart against the Americans, because it may have been a mistake. Some of my family was killed, but some are still in our country. I request justice from you, and that we can go home and support and take care of our family.

Tribunal President: We understand, and we will continue to review all the information while making our determination on whether you are an enemy combatant.

The Tribunal President ordered a recess to remove the Witness. After reconvening, the Tribunal President confirmed the Detainee had no additional information for the Tribunal, and thanked the Detainee for his testimony and participation. The Tribunal President then explained the remainder of the Tribunal process, and adjourned the open session.

AUTHENTICATION

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

Tribunal President

Colonel, USAF

UNCLASSIFIED//FOUO

ISN# 458
Enclosure (3)
Page 6 of 6

1941

Summarized Unsworn Detainee Statement

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

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

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

The Recorder administered the Muslim oath to the detainee.

The Personal Representative read the allegations to the detainee so that he could respond to them one at a time. The Personal Represent also provided comments from notes taken during his previous meetings with the detainee. The allegations appear in italics, below.

1. The detainee was captured at a checkpoint in the same type vehicle and clothing that was witnessed leaving the site of [an] ambush against U.S. forces.

Detainee: Of course I have clothes. Of course every one has clothes. I was not naked. I don't know about any attack. I just went from my home to go to the city to buy some groceries and some stuff for my house.

Personal Representative: I will also add the detainee told me the type of clothing he was wearing, a lot of people wear it in Afghanistan.

Detainee: Yes.

Personal Representative: That jacket you were wearing, you've had for a number of years?

Detainee: Yes.

Personal Representative: And when you went to/were captured at the checkpoint, you told me that, "why would you go back to the enemy if you were just firing at the enemy?"

Detainee: I ask the Tribunal, if anybody that you fight with, or your enemy you dispute with, and you do something, and you go back to them. If this is true I, accept any decision of yours. You put yourself in my shoes. Just think to yourself, if you have a fight with a person, do you go to them right away?

Personal Representative: I would like to help clarify the contents of our meeting, in that the piece of evidence says he was captured at this checkpoint.

UNCLASSIFIED//FOUO

Detainee: Nothing was with me. I just went to buy some groceries and something for my family.

Personal Representative: The point to help clarify, he stated he was driving voluntarily to go to the city to pick up items and he purposely went through that checkpoint. Which is why he is asking the Tribunal if he were shooting at the forces, why would he then try to go through the checkpoint voluntarily?

Detainee: If I did this thing, I would never go through the checkpoint.

Personal Representative: You told me no one in the car had any guns.

Detainee: Yes.

Personal Representative: There was a taxicab.

Detainee: It was bigger than a taxicab, minivan.

Personal Representative: They originally arrested everybody, but you don't know where the other people went.

Detainee: Yes. Anybody that went to this checkpoint from North, South, East, West. They arrested everybody.

Personal Representative: You were going through the checkpoint and ordered to go to the city of Dara, Afghanistan.

Detainee: Yes. Before I entered the city, at the checkpoint they arrested me, because I want to, tomorrow was Eid – the end of the holy month – the end of Ramadan – I go to buy some groceries, clothes, some candy for my family.

Personal Representative: That was the essence of my notes in relation to item 1.

2. The detainee suffered hearing loss when captured, which was caused by firing weapons.

Detainee: I never lost my hearing. If my hearing was, maybe I have problem. I never asked someone a second or third time. My hearing is perfect. You guys have a doctor. You can see my hearing is normal. I have never taken any medicine, never one tablet. If I did, that would be a problem. You can send me to the doctor to see I have no problem.

Personal Representative: I would like to emphasize that number one, the detainee did say he didn't suffer any hearing loss.

UNCLASSIFIED//FOUO

ISN# 961
Enclosure (3)
Page 2 of 7

1943

UNCLASSIFIED//FOUO

Detainee: Yes.

Personal Representative: Number two, it says when the detainee was captured he was only sitting in the car when they went to the checkpoint.

Detainee: Yes, there was no purpose to resist. We were going to the city.

3. *The detainee stated he used Klash-n-krors (sic) against U.S. personnel.*

Detainee: That is not true. That is nonsense. One person cannot use one weapon to lose hearing. One person will have to use heavy weapons to lose hearing. How can a person lose hearing from one weapon?

Personal Representative: Another note from our meeting. You told me you were a farmer.

Detainee: Yes.

Personal Representative: What else did you do after the Taliban fell?

Detainee: Two months before I got captured, I bought a used car to do something for my kids.

Tribunal President: Would you like to say anything else?

Detainee: Yes. I would like to ask you about this allegation. Through your mind and your knowledge, is this true or not? It is impossible to have a dispute with some people, or some group, and go directly to them empty handed, to arrest you.

Tribunal President: Is there anything else?

Detainee: I ask again, please use your knowledge and your professional judgment. Think about it. If you think I did this, I am guilty. I accept your decision. If not, I'm here for the past two years away from my family. Please help me.

Tribunal President: The Tribunal will review all of the information provided to it, including the Unclassified Summary of Evidence, your responses and comments to the allegations, and also classified information, before we make our decision. We took an oath to use our best judgment and common sense, and we will make a decision based on that.

Detainee: Is possible to let me know when I will be released or if I will stay behind bars?

Tribunal President: There will be a military officer who will come to you and give you the decision after it is approved in Washington, D.C. I'll further explain the process to you in just a moment. Does that conclude your statement?

UNCLASSIFIED//FOUO

ISN# 961
Enclosure (3)
Page 3 of 7

1944

Detainee: The same thing I told you before. Use your knowledge and your professional judgment. If you believe I am guilty of this allegation, from the bottom of my heart, I accept that.

The Tribunal President asks the Personal Representative and the Recorder if they have any additional questions for the detainee. The Personal Representative and the Recorder have no further questions.

Tribunal Members' questions

Q. Where are you from?

A. Afghanistan.

Q. What city or what area were you in when you were captured?

A. Baghran District, the village name Kalanjoi, province Helmand.

Q. The clothes that you were wearing are just regular Afghani clothes? Nothing special?

A. Normal clothes. I have had the same ones for 10 years.

Q. During that time of year, all Afghani men wear the same clothes?

A. Yes, that is during the wintertime when it is cold.

Q. When you were going to the city to buy the items, did you hear the attack? Did you hear nearby there might have been an attack?

A. No, I never heard from a person or gunfire.

Q. Have you had any military training?

A. Never.

Q. You said you were a farmer. What crop did you grow?

A. Wheat and Corn.

Q. Who else were you detained with?

A. This was just a bus to take people to one place. I only know one person on the whole bus.

Q. Were you traveling with that person, or was he someone you just knew?

A. No, he was in the middle of the bus. I just saw him there.

Q. What year were you arrested?

A. I am not sure. I am not that educated. Twenty-two to twenty-three months ago, I was arrested.

Q. Was it the same year the U.S. came to Afghanistan?

UNCLASSIFIED//FOUO

A. No, after that, about one year later.

Q. Do you own any weapons?

A. No.

Q. Did anybody ever give you a Kalashnikov?

A. No. Nobody ever gave me one.

Q. Have you ever used a Kalashnikov?

A. No.

Q. The other people in the minivan, were they arrested?

A. Yes, we all got arrested. They took them, so I don't know where they are.

Q. All men were arrested?

A. Yes.

Q. Do you know if any of them were Taliban?

A. I don't know. I don't think any of them were Taliban.

Q. Did any people in the van have weapons?

A. No.

Detainee: In Afghanistan, a lot of Afghanis, now they capture people and sell them to the Americans. Maybe that is what happened to me.

Tribunal President's questions.

Q. Who arrested you? Who captured you?

A. This place was American and also some Afghanis, special Afghanis from central Afghanistan. We call them Hazora. They look like oriental people. Different tribe and different language. Also different religion.

Q. They were not Muslim?

A. They are Muslim, but they are Shiites. They claim Muslim, they just practice it differently. I refuse to call it Islam.

Q. Can you repeat the name of the Afghan men?

A. Jumandar.

Q. Jumandar? Are they soldiers or fighters?

A. No, he was the old guy I knew on the bus. He was poor and went begging for food or money from house to house.

UNCLASSIFIED//FOUO

ISN# 961
Enclosure (3)
Page 5 of 7

1946

UNCLASSIFIED//FOUO

Personal Representative: Let me clarify Jumandar was the old man that was walking in the street and then sat in the bus he was the old man the detainee knew.

Tribunal President: Ok.

Q. The Americans were solders?

A. Yes.

Q. The Afghan Hazora were assisting the Americans to arrest people on the bus?

A. I don't remember them. They were with them. They were from every side of the car. They arrested us and they put us in a backyard or somewhere with 60 people. Each car coming to there, everyone was arrested.

Q. This was at the checkpoint?

A. Yes. I don't call them checkpoints. It was just in the middle of nowhere.

Q. Were they stopping every car that was passing this area in the middle of the street?

A. Yes, every car, they stopped them.

Q. Abdul, are you a member of the Taliban or Al Qaida?

A. No.

Q. Do you associate with anybody that is Taliban or Al Qaida?

A. No.

Q. Have you ever fought against the Northern Alliance or the coalition partners?

A. I never, ever shot anybody. I never fought with anybody. I never even offered my house to go join some fight. I never worked for any government, nor has the government give me one bit of food.

Personal Representative: I would like to get some clarification regarding the bus. Were all seven people, did all seven people get on the bus at the same time?

Detainee: No. There were five people before me when I entered the bus. The driver was still driving and in the middle of the way, the old guy, Jumandar, he was walking when he got on.

Personal Representative: The point of emphasis is that the other people were on the bus prior to you getting on it.

Detainee: Yes.

Personal Representative: Did they have the similar color and type of clothing that you wore?

UNCLASSIFIED//FOUO

ISN# 961
Enclosure (3)
Page 6 of 7

1947

UNCLASSIFIED//FOUO

Detainee: Same clothes everywhere.

Personal Representative: Lastly how far from the city were you were picked up in the bus from were you were at the checkpoint?

Detainee: I am not educated to tell you about the mileage, but it was about one hour.

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

Detainee: I ask you for your knowledge to think about this question. If you believe that I am an enemy combatant and this allegation is true, I will one hundred percent, I will accept your decision as an enemy combatant. Otherwise, please help me. My hearing loss is a big lie, I understand every word of yours, and I didn't ask a second question. I heard everything clearly. Think about this thing and think of the whole thing. Also, it is impossible for me to lose my hearing with just one Kalashnikov. It is like you cannot write with two pens in your hands.

Tribunal President: Let me clarify what you are saying. Are you saying that the allegation says you had two weapons?

Detainee: They told me I used heavy weapons to lose my hearing. You cannot lose your hearing with a Kalashnikov. That means you used one heavy weapon, then you used a Kalashnikov.

Personal Representative uses sound effects to differentiate the sounds made by a Kalashnikov and a heavy machine gun.

Detainee: Yes, again he is right, and also this is the truth and justice. You have time, you have time to send me to any doctor to check my hearing. You will see the result.

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

AUTHENTICATION

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



Colonel, U.S. Army
Tribunal President

UNCLASSIFIED//FOUO

ISN# 961
Enclosure (3)
Page 7 of 7

1948