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**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: _____ #20
ISN #: _____

1. Introduction

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

2. Synopsis of Proceedings

The Tribunal held this hearing on 13 November 2004. The Recorder presented Exhibits R-1 through R-4 during the unclassified portion of the Tribunal. The primary exhibit, the Unclassified Summary of Evidence (Exhibit R-1), indicates, among other things, that: The Detainee is a member of Al Qaida and other affiliated terrorist organizations; the Detainee recruited individuals to attend Al Qaida run terrorist training camps in Afghanistan; the Detainee provided money and material support to Al Qaida terrorist training camps; and that the Detainee has received extensive training at Al Qaida run terrorist training camps since 1993. The Detainee has been trained on the AK-47, rocket propelled grenades (RPGs), handguns, ambush theory, detection of land mines and the manufacture of improvised grenades; the Detainee provided support to Al Qaida terrorists by providing shelter for their families while the Al Qaida members committed terrorist acts; the Detainee engaged in hostile acts against the United States or its coalition Partners; the Detainee was armed and prepared to fight on the frontlines against US and allied forces alongside Taliban and Al Qaida fighters; the Detainee retreated to the Tora Bora Afghanistan along with other Taliban and Al Qaida fighters; the Detainee engaged in these hostile actions while neither he nor his fellow fighters wore distinctive military emblems on their clothes, nor followed a typical chain of command; the Detainee provided support to Usama Bin Laden's Al Qaida terrorist network with full knowledge that Bin Laden had issued a declaration of war against the United States and that the Al Qaida network had committed numerous terrorist attacks against the United States and its citizens. The Recorder called no witnesses.

The Detainee initially indicated that he would attend and participate in the Tribunal. However, on the morning of the Tribunal, the Detainee refused to attend, citing

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instructions from his attorney. His decision is reflected on the Detainee Election Form (Exhibit D-a). The Personal Representative presented Exhibits D-b through D-g, and provided a summary of those exhibits that is provided at Enclosure (3) to the CSRT Decision Report. The Personal Representative called no witnesses on behalf of the Detainee.

During the classified session of the Tribunal, the Recorder presented Exhibits R-5 through R-27 without comment. The Personal Representative presented Exhibit D-h and provided a brief explanation. After considering all of the classified and unclassified evidence, the Tribunal determined that the Detainee is properly classified as an enemy combatant.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-27, and D-a through D-h.
- b. Testimony of the following persons: None. But, the Detainee did provide a witness statement, which was submitted by the Personal Representative as Exhibit D-g.
- c. Sworn statement of the Detainee: None. But, the Detainee did provide a statement, which was submitted by the Personal Representative as Exhibit D-e.

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

The Detainee requested the following witnesses:

- a. Shahid Abassi. This request was denied on the ground that the witness was not reasonably available. The Detainee did not provide enough detail regarding the witness' whereabouts to enable U.S. and Pakistani authorities to locate the witness. See page 1 of Enclosure (5) to the CSRT Decision Report.
- b. His wife, [REDACTED] and his wife, [REDACTED] and Abdul Wahid. The witness request for these United Kingdom residents was approved by the Tribunal President. The Department of State and United Kingdom authorities did successfully contact the witnesses. However, the witnesses failed to reply to the U.S. Embassy in the U.K. on whether they would make themselves available for the hearing. The witnesses did not appear at the hearing or provide written statements. See pages 1 and 2 of Enclosure (5) to the CSRT Decision Report.
- c. A Sudanese in charge of the [REDACTED] training camp. The Tribunal was able to identify this individual as Detainee # [REDACTED]. Detainee # [REDACTED] was interviewed by the Personal Representative. Detainee # [REDACTED] declined to participate in the hearing as a witness, but he

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did agree to submit a statement, which was accepted as Exhibit D-f. See page 2 of Enclosure (5) to the CSRT Decision Report.

d. Patrick Hamilton and [REDACTED]. The Detainee requested these individuals for the purpose of verifying that at one point he, the Detainee, was classified as a prisoner of war. The request was originally approved. However, upon consultation with the legal adviser and further reflection, the Tribunal President concluded that the witnesses were not relevant, and so the request was disapproved. The information that the witnesses were to provide was determined to be irrelevant because the fact, if established, that the Detainee was at one time classified as a prisoner of war is not germane to the question before the Tribunal, namely whether the Detainee was part of or supporting Taliban or Al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. See pages 2 and 3 of Enclosure (5) to the CSRT Decision Report.

e. [REDACTED]. The Tribunal President made a determination that security considerations preclude this witness' presence at the hearing. Therefore, the witness request was denied on the ground that the witness was not reasonably available.

Prior to the hearing, the Detainee requested that a statement from his attorney be submitted as evidence. During the hearing, the Detainee, through his Personal Representative, submitted documents from two of his attorneys. These documents are the affidavits described in paragraph 5.a., below. See also page 2 of Enclosure (5) to the CSRT Decision Report.

The Detainee did request from the Tribunal prior to the hearing a definition of Al Qaida and a list of associated forces, as that phrase is used in Exhibit R-1, the Unclassified Summary of Evidence. Responsive answers to both inquiries were provided to the Detainee through his Personal Representative prior to the scheduled hearing date. See pages 1, 4 and 5 of Enclosure (5) to the CSRT Decision Report.

The Detainee requested from the Tribunal prior to the hearing that he be administered a polygraph as a means of bolstering his claim of innocence. The Tribunal President concluded that she did not have the authority to grant such a request, as there are no polygraphers attached to the Tribunals. Moreover, given the nature of polygraphy, especially in a cross-cultural setting such as this, the Tribunal doubted the helpfulness of such an examination, even if it were to show no deception to relevant questions. The Tribunal preferred instead to rely upon the testimony of the Detainee, were he to offer any, and the documents submitted by the Recorder and the Personal Representative. Therefore, the request was denied. See page 2 of Enclosure (5) to the CSRT Decision Report.

5. Discussion of Unclassified Evidence

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

a. The Recorder offered Exhibits R-1 through R-4 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibits R-2 and R-3 are affidavits submitted by the Detainee's two attorneys to the U.S. District Court for the District of Columbia discussing aspects of the attorneys' representation of the Detainee. Exhibit R-4 is the Government's motion to consolidate various habeas corpus petitions from individuals being detained by the U.S.. Exhibits R-2 through R-4 did not provide information helpful to the Tribunal on the question of whether this Detainee meets the definition of an enemy combatant. Accordingly, the Tribunal had to look to other evidence to support the assertions in the Unclassified Summary of Evidence and the Tribunal's conclusions.

b. As noted in paragraph 2, above, the Detainee, through his Personal Representative, submitted Exhibits D-b through D-g in the unclassified session. Exhibit D-b is a letter to the Detainee from his lawyer. Exhibit D-c is the Detainee's habeas corpus petition. Exhibit D-d is a letter from Deputy Assistant General Thomas R. Lee to the Senior Judge of the Washington D.C. federal district court providing his estimate of the time frame in which the CSRT process could be completed. Exhibit D-f is a copy of the Third Geneva Convention. While valuable to the Tribunal generally, Exhibits D-c, D-d and D-f were not directly relevant to the issue before the Tribunal.

c. As noted, Exhibit D-e is the Detainee's statement. Much of that exhibit is also dedicated to the discussion of issues outside the scope of the Tribunal's inquiry. However, the Detainee did emphatically and at length deny the allegations contained in paragraph 3 of Exhibit R-1, the Unclassified Summary of Evidence. The Tribunal accepted the Detainee's statements as an acknowledgement that he had some involvement with a number of terrorists and terrorist training camps, including providing financial support, but otherwise found the Detainee's testimony unpersuasive when considered in conjunction with the classified evidence. The Tribunal did note the Detainee's assertion that he signed a statement under duress, but also noted that the Detainee acknowledges that he was afforded an opportunity to edit that statement.

d. Exhibit D-f is a statement by another Detainee, [REDACTED]. As discussed above, the Detainee had requested [REDACTED] as a witness. The Personal Representative advised the Tribunal that Detainee [REDACTED] declined to participate as a witness, but did agree to submit a statement. The Personal Representative further advised the Tribunal that the statement is written by the translator, documenting Detainee's [REDACTED] verbal statements. The picture on the Exhibit is that of Detainee Beggs.

6. Consultations with the CSRT Legal Advisor

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The Tribunal consulted the CSRT Assistant Legal Advisor regarding the Detainee's allegations made in his statement that he witnessed individuals in custody being abused, and that he was abused, or at least threatened with abuse, as well (see Exhibit D-e). As per instructions, the OARDEC Forward Chief of Staff and the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO were notified of the matters on 15 November 2004. This information had previously been passed to the OARDEC liaison on 23 September 2004.

7. Conclusions of the Tribunal

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

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


b. As indicated in Exhibit D-a, the Detainee made a conscious decision not to attend his pre-Tribunal interview session with the Personal Representative. Accordingly, the Tribunal finds the Detainee made a knowing, intelligent and voluntary decision not to participate in the Tribunal process.

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

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Colonel, U.S. Army
Tribunal President

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