

Page 1075  
UNCLASSIFIED//FOUO

## UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #6  
ISN #: [REDACTED]

### 1. Introduction

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

### 2. Synopsis of Proceedings

The Tribunal commenced this hearing on 20 September 2004. The Recorder presented Exhibits R-1 through R-5 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: admits traveling to Afghanistan prior to the attacks of 11 September 11 2001, where he stayed at a known Al Qaida safehouse in Kandahar, Afghanistan, which was run by a highly placed Al Qaida operative; admits residing in another safe house in Kabul, Afghanistan, where the number of guests and the amount of activity significantly increased just prior to the attacks of 11 September 2001; admits having knowledge of the 11 September 2001 attacks prior to their occurrence; admits he conducted surveillance of buildings, hospitals and schools with another detainee; admits he assisted with the transfer of chemical weapons at a compound near Kabul; states he trained several of the 11 September 2001 hijackers in martial arts and had planned to hijack a plane himself; and, was captured along with two German Muslims in Pakistan by Pakistani authorities. The Recorder called no witnesses.

The detainee chose not to attend the Tribunal as reflected in the Detainee Election Form (Exhibit D-a); however, he did ask the Personal Representative to tell the Tribunal that: nothing in the Unclassified Summary of Evidence is true; he was kidnapped from Pakistan, taken to Egypt, then brought to Guantanamo Bay; all of the information he has given prior to his meeting with his Personal Representative on 17 September 2004 was given under duress and torture; he has been tortured since being captured and has reported that fact to the International Committee of the Red Cross; and he would tell interrogators what they wanted to hear because he was in fear.

UNCLASSIFIED//FOUO

ISN [REDACTED]  
Enclosure (1)  
Page 1 of 4

31015

NOV00129

**UNCLASSIFIED//FOUO**

During the classified session of the Tribunal, the Recorder presented Exhibits R-6 through R-19. The Personal Representative presented no classified evidence. Both the Recorder and the Personal Representative commented on the classified exhibits.

While the Tribunal was reading the classified exhibits, the Tribunal received instructions from the Office for the Administrative Review of the Detention of Enemy Combatants in Washington, D.C., to recess the Tribunal until further notice. The Tribunal was subsequently instructed to reconvene on 22 September 2004, which it did. When the Tribunal reconvened its classified session, the Recorder introduced into evidence the second page of Exhibit R-10, which had inadvertently not been included with the original exhibit. The Tribunal then completed reading all of the classified exhibits and closed for deliberations. The Tribunal considered both the unclassified and classified exhibits and the detainee's comments made through the Personal Representative in reaching its decision.

### **3. Evidence Considered by the Tribunal**

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: R-1 through R-19 and D-a.
- b. Testimony of the following persons: None.
- c. Unsworn Statement of the detainee (through the Personal Representative):

See Enclosure (3) to the CSRT Decision Report.

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

The Detainee requested no witnesses.

The Detainee requested no additional evidence be produced.

### **5. Discussion of Unclassified Evidence**

The recorder offered Exhibits R-1 through R-5 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 (the FBI redaction certification), and Exhibits R-3 and R-4 (documents relating to the detainee's pending Habeas petition), provided no usable evidence. Exhibit R-5, an excerpt from the Terrorist Organization Reference Guide, provided useful information on the Hizballah and Lashkar-e-Tayyiba terrorist/terrorist support groups. Because there was no other unclassified evidence for the Tribunal to consider other than the Personal Representative's denials on behalf of the detainee of the

**UNCLASSIFIED//FOUO**

ISN [REDACTED]  
Enclosure (1)  
Page 2 of 4

31016

NOV00130

**UNCLASSIFIED//FOUO**

assertions on the Unclassified Summary of Evidence, the Tribunal had to look to the classified exhibits to support the assertions on the Unclassified Summary of Evidence and the Tribunal's conclusions. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

**6. Consultations with the CSRT Legal Advisor**

a. When the CSRT Decision Report was being prepared, the Tribunal realized that the Reporter who recorded the proceeding on 20 September 2004 was not the same Reporter who recorded the proceeding on 22 September, and as a result, had not been sworn. Accordingly, on 23 September 2004, the Tribunal reconvened for the sole purpose of swearing the Reporter with respect to the classified proceedings of the previous day. The Tribunal members, the Personal Representative, and the Recorder were present. No further corrective action was required.

b. Because the Personal Representative's comments on behalf of the detainee allege that he has been tortured (see Enclosure (3) to the CSRT Decision Report and Exhibit R-10), the Tribunal notified the CSRT Assistant Legal Advisor. As per instructions, the OARDEC Liaison to the Criminal Investigation Task Force and JTF-GTMO was also notified of the matter on 22 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. The Personal Representative informed the Tribunal that the detainee understood the Tribunal process, but chose not to participate, as indicated in Exhibit D-a.

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

**UNCLASSIFIED//FOUO**

ISN [REDACTED]  
Enclosure (1)  
Page 3 of 4

31017

NOV00131

UNCLASSIFIED//FOUO

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,

[REDACTED]

Colonel, U.S. Army  
Tribunal President

UNCLASSIFIED//FOUO

ISN [REDACTED]  
Enclosure (1)  
Page 4 of 4

31018

NOV00132