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UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #27
ISN #: [REDACTED]

1. Introduction

As the Combatant Status Review Tribunal Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of, or supporting the Taliban. 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. Any classified evidence considered by the Tribunal is discussed in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

2. Synopsis of Proceedings

The unclassified evidence presented to the Tribunal by the Recorder indicated that the Detainee is associated with the Taliban. On 27 March 2003, a Red Cross convoy was attacked in Afghanistan, and a member of the Red Cross was murdered on the scene. Prior to the 27 March 2003 incident, authorities in the Shahwali Kot area of Afghanistan were informed of a group operating in the area with the intent to do harm to westerners. The Detainee lives in Shahwali Kot, Afghanistan. The Detainee is suspected of being a bodyguard of the individual responsible for the killing of Red Cross personnel. On 03 April 03, an individual named [REDACTED] was known to possess a satellite phone. The Detainee was captured in a creek bed by U.S. Forces on 21 April 03.

The Detainee chose to participate in the Tribunal process. He called two witnesses, requested no documents be produced, and made an oral, sworn statement. The Tribunal President found the requested witness not reasonably available, and that alternative means of producing the witness's testimony were also not reasonably available. The Detainee originally requested two letters to be presented to the Tribunal, however, after consultation with the Personal Representative, the Detainee stated that the letters did not contain any information relevant to the Detainee's allegations and the Detainee withdrew his request to have them presented. The Detainee, in his oral statement, denied being a Taliban member. The Tribunal President's evidentiary and witness rulings are explained below.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a, R-1 through R-19

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b. Testimony of the following persons: none

c. Sworn statement of the detainee

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

The Detainee requested the following witnesses be produced for the hearing:

<u>Witness</u>	<u>President's Decision</u>	<u>Testified?</u>
[REDACTED]	not reasonably available	no*
[REDACTED]	not reasonably available	no*

* The Detainee proffered that these witnesses could state whether or not he owned a satellite phone and whether he worked as a bodyguard for anyone. It would appear that this testimony could be relevant to the Detainee's case and this request was therefore, approved. As such the Tribunal President made a request to obtain these witnesses' testimony. In accordance with standard procedures, the request was sent to the U.S. Department of State on 04 January 2005 with a follow-up on 17 January 2005. To date, the Department of State has indicated they have had no response back from the Foreign Embassy. As such, the Tribunal President determined that based on the attempt to locate and the lack of response, these witnesses are not reasonably available.

The Detainee requested no additional evidence be produced:

5. Discussion of Unclassified Evidence

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

a. The recorder offered Exhibits R-1 and R-2 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 provided no usable evidence. Accordingly, the Tribunal had to look to classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the Detainee's sworn testimony. A summarized transcript of the Detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). In sum, the Detainee stated that he was a poor farmer and that he never carried a gun. He simply worked as a farmer and with a shovel. He was not aware of the Red Cross members that were attacked and only heard about them while at the Mosque. He had nothing on him that would indicate that he was a bodyguard. He was a poor guy with no father and no brother. There were only

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[REDACTED] at his house and he had to support his family. The Detainee stated that he never had a telephone; never saw one in all of his life. At the time of his capture, that night he was sleeping and his wife and mother came to wake him up. The helicopters were circling overhead and they were afraid that something would happen to the livestock. There was a dry creek in front of the house and the when the Detainee went outside his house, he went to the creek bed and sat down. When he got up to go back inside, the three soldiers told him to put up his hands. They covered his eyes and tied his hands. He did not know why he was arrested.

The Detainee made an allegation of physical mistreatment while he was in detention in Cuba to his Personal Representative during one of his interviews. The Tribunal President, once informed of these allegations, caused these allegations to be reported to the chain of command. When the Detainee stated that he had been harshly treated, the Tribunal President asked the Detainee if he had provided all of his information to the Personal Representative to which he replied that he had. The Tribunal President then informed the Detainee that these allegations were reported to the chain of command based on the Personal Representative's report.

The Tribunal also relied on certain classified evidence in reaching its decision. 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

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

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 was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed appropriate.
- b. The Detainee understood the Tribunal proceedings. He asked no questions regarding his rights and actively participated in the hearing.
- c. The Detainee is properly classified as an enemy combatant and is a member of, or affiliated with Taliban.

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8. Dissenting Tribunal Member's Report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



COL, U.S. Army
Tribunal President

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