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UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL DECISION

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

TRIBUNAL PANEL: #20
ISN #: 307

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 and 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 November 2004. The Recorder presented Exhibit R-1 during the unclassified portion of the Tribunal. That exhibit, the Unclassified Summary of Evidence, indicates, among other things, that: the detainee is associated with al Qaida or Taliban forces; the detainee, a Syrian national, traveled to Afghanistan in 1999 via Syria, Turkey and Iran, finally arriving in Kabul, Afghanistan; the detainee sent for his family in July 2001 and they arrived in Kabul Afghanistan via a Taliban airline plane; the detainee was on a list of captured Mujahidin members; the detainee allowed Arab fighters to stay in his house; the detainee was identified by a senior al Qaida operative as reportedly being part of a terrorist group; the detainee and his family departed Jalalabad heading towards the Pakistan border as the situation escalated; the detainee and others were turned over to the Pakistani police and were arrested; the detainee was in possession of 100 Saudi riyals and approximately 3,000-5,000 Pakistani rupees; the detainee escaped from custody when some prisoners overpowered the guards and flipped a transport vehicle; the detainee and others were recaptured by the Pakistani police; the detainee was in possession of a Casio watch – a model which has been used in bombings linked to al Qaida and radical Islamic terrorist improvised explosive devices; and the detainee has been identified as being affiliated with al Qaida or other Islamic extremist groups. The Recorder called no witnesses.

The detainee participated actively in the Tribunal proceedings. He submitted a written statement, Exhibit D-b, and then answered Tribunal members' questions. The detainee's sworn testimony and the answers to the questions posed to him are summarized in Enclosure (3) to the CSRT Decision Report. The detainee called one witness.

UNCLASSIFIED//~~FOUO~~

ISN #307
Enclosure (1)
Page 1 of 3

30637

NOV00106

UNCLASSIFIED//~~FOUO~~

During the classified session of the Tribunal, the Recorder presented Exhibits R-2 through R-25, commenting only that highlights on the documents in pink were made by the Recorder, those in yellow by the Personal Representative. The Personal Representative neither presented classified exhibits nor made any comments on the classified evidence.

After reading the classified and unclassified exhibits, the Tribunal determined that it required more information. The Tribunal posed a number of questions to the Recorder, and then recessed the Tribunal to allow the Recorder an opportunity to do further research. On 3 December 2004, the Tribunal reconvened. During that session, the Recorder submitted classified Exhibits R-26 through R-29. 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-29, and D-a and D-b.

b. Testimony of the following person:

ISN # [REDACTED] (See Enclosure (3) to the CSRT Decision Report).

c. Sworn statement of the detainee:

See Enclosure (3) to the CSRT Decision Report.

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

The detainee's one witness request, for his son [REDACTED] was approved.

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 Exhibit R-1 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. Accordingly, the Tribunal had to look to other evidence to support the assertions in the Unclassified Summary of Evidence.

UNCLASSIFIED//~~FOUO~~

ISN #307
Enclosure (1)
Page 2 of 3

30638

NOV00107

UNCLASSIFIED//~~FOUO~~

b. As noted in paragraph 2, above, the detainee submitted a written statement and provided sworn testimony, responding to each of the allegations on the Unclassified Summary of Evidence. Afterwards, he answered questions posed by the Tribunal members. In sum, the detainee denied being a member of the Taliban or al Qaida. He asserted instead that he was a businessman in Kabul, drawn to Afghanistan from Syria by Kabul's superior business environment. A summarized transcript of the detainee's sworn testimony is attached as CSRT Decision Report Enclosure (3). His written statement is attached as Exhibit D-b.

6. Consultations with the CSRT Legal Advisor

The Tribunal consulted the CSRT Assistant Legal Advisor regarding allegations made by the detainee in his written statement and in his testimony that he was tortured by Pakistani officials in the presence of U.S. officials and in a U.S. facility, and that he was abused by U.S. soldiers. His son, detainee # [redacted] also testified that he was abused. 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 22 November 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 was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings and actively participated throughout the hearing.
- c. The detainee is properly classified as an enemy combatant because he was part of or supporting al Qaida and 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,

[Redacted signature block]

Colonel, U.S. Army
Tribunal President

UNCLASSIFIED//~~FOUO~~

ISN #307
Enclosure (1)
Page 3 of 3

30839

NOV00108