

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood the procedures. When the Tribunal President asked the Detainee if he had any questions about the Tribunal Process, the Detainee stated:

Detainee: Yes, I understand but there are some documents you say that I'm not allowed to look at?

Tribunal President: That is correct.

Detainee: I told my Personal Representative if those documents, if I cannot see them, why are they actually putting them in the Tribunal as evidence?

Tribunal President: I think I can help explain.

Detainee: I'm just saying, any documents I cannot look at to say if it's true or not, I don't want them to be put in as evidence against me.

Tribunal President: I understand. The classified documents are classified by another government agency. They have determined that releasing them to you may cause our country damage.

Detainee: It's okay if I cannot look at them, but if there is any allegation on me in those documents I do not agree with that.

Tribunal President: I understand that perfectly. However, you have already received an unclassified summary of the evidence against you.

Detainee: Yes. I assumed that. I'm just saying the other documents, other than that which include any accusation in it, and I did not know about it I don't want the Tribunal to decide on those documents, which I did not testify on.

Tribunal President: I understand that. The Personal Representative has seen all classified documents regarding your case. It is his responsibility to identify to the Tribunal those things that we need to consider, including things that would tend to make you a non-enemy combatant.

Detainee: My Personal Representative showed me a lot of the documents and the allegations on me, and most of them are not true and that's why I'm here to testify, and I want the Tribunal not to consider any of the documents, which I did not know about those allegations. He has told me about a lot of allegations and we talked about it and most of them are not true.

Tribunal President: I understand. We're going to proceed with this Tribunal and you'll have an opportunity to provide us that testimony.

Detainee: I will answer to each allegation and I will bring a witness on each allegation that is not true.

Tribunal President: That would be very helpful to the Tribunal. I have more information for you.

Detainee: Any other new allegation that I cannot see, you can ask me if I ever did that and I will answer. If I have knowledge, I will provide it.

Tribunal President: I understand. Before we continue you need to understand that the three members here have not seen any information about you other than your name. This is an opportunity for you to provide us information and we can evaluate that without any other knowledge that the government has. Any information you give us would be helpful. Do you have any other questions concerning the Tribunal process?

Detainee: No that's all I was going to say. I said it before to my PR and the Tribunal that whatever allegations are on me let me know and let me explain it before you make a decision.

Tribunal President: Very well.

The Personal Representative presented the Detainee Election Form (Exhibit D-A) to the Tribunal.

The Recorder presented Exhibits R-2 thru R-3 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1). The Tribunal President called for a brief recess to allow the Tribunal Team to read the unclassified evidence. But before the hearing could be recessed, the Detainee made the following request.

Detainee: I have to pee and I have to go to the bathroom; they didn't ask me. I will make it quick if you will give a short recess.

Tribunal President: That will be appropriate at this time.

Detainee: Sorry for that.

The Tribunal was recessed briefly. Then the Tribunal is called to order.

Detainee: Sorry for the inconvenience. It was really bothering me.

Tribunal President: That's fine. You can make any request that you need during this Tribunal and it was also a very appropriate time since we needed to review some evidence.

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

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: Zaman Gul I've been told by the Personal Representative earlier that you requested two witnesses. I determined that the reasons these witnesses were being called would be relevant to this Tribunal's deliberations. I approved that request and I understand that both witnesses are available and have agreed to testify at this hearing today. I would like to confirm for the record the identification of these two witnesses. The first is Zaman Khan and the second is Mohammed Gul. Are those the two witnesses that you requested?

Detainee: Yes.

Tribunal President: We're going to proceed with this hearing to receive your testimony first regarding the government's allegations. Before we ask you questions regarding your testimony I would then like to bring in each witness one at a time. As Zaman Khan is available he is ready to testify at this time. He is waiting. Lets proceed with the next part of the Tribunal. Zaman Gul you may present any evidence you have to the Tribunal. Your Personal Representative may assist you if you wish. As you have stated previously, and also had noted in the Detainee Election Form, I believe you wish to address each allegation one at a time. Is that correct?

Detainee: Yes.

Tribunal President: Zaman Gul would you like to make your statement under oath? An oath is a promise to tell the truth.

Detainee: Yes I want to take that oath that I will tell the Tribunal the truth.

Tribunal President: Very well, Recorder please administer the appropriate oath.

The Recorder administered the Muslim oath to the Detainee.

The Tribunal President opened the Tribunal to the Detainee to make his statement. The Personal Representative repeated the allegations from the unclassified summary document provided below in italics.

3.a.1. The detainee traveled from Afghanistan to Saudi Arabia in 2001.

Detainee: Yes I went. Can I give you the details or just say yes or no?

Tribunal President: You can provide detail if you think it's important for us to know. We will ask questions later; that is why we're taking notes.

Detainee: Can I go into detail on that allegation?

Tribunal President: Yes. You can if you wish; however, you may want to go into more detail when we have questions and answers because then you'll know what we're interested in.

Detainee: The allegation has a date and I don't know what date it was, it just said the year. I did go to Saudi because in Afghanistan there was fighting around that time in the country and there was no work in the country. Most of the people, they left to other countries for work, to do some work, make some money and support their families. That is what I did; I left the country and went to Saudi to support my family.

3.a.2. The detainee utilized counterfeit travel documents for his travel to Saudi Arabia.

Detainee: Since there was no government in Afghanistan, people could not fly from the country of Afghanistan because there were no official documents and no government in the country and there was no airline. Most of the Afghan people went to Pakistan and traveled from there to other countries. The same way all of those people did it; I did it. I went to Pakistan, I bought my tickets and documents and I went through the airport officially just like the other people did it. So it wasn't any counterfeit documents; it was the way other Afghan people did it.

3.a.3. The detainee returned to Afghanistan at the time the Northern Alliance recaptured Kabul.

Detainee: When I came home I was just there to visit my family. I was not actually supposed to, but the Northern Alliance took Kabul. I was not aware of that and I did not come for that reason. I went there to see my family.

3.a.4. The detainee's family and village members stated an important Taliban member used the detainee's father's guesthouse.

Detainee: This is not true. There was no such thing like that.

3.a.5. The detainee lives with his father, Haji Sarajudeen.

Detainee: Yes.

3.a.6. The detainee's father worked as a recruiter for Pacha Khan.

Detainee: My father testified about that question already.

The Tribunal President requested that the Personal Representative repeat the allegation and he did so.

Tribunal President: Again your statement?

Detainee: This allegation is not on me it is on my father. He is here and he testified on that allegation and he answered that allegation. I can tell you again.

Tribunal President: That might be helpful because I believe the other Tribunal panel members have not had the benefit of his father's testimony. We would recognize it would be your statement not your father's.

Detainee: My father did not work for Pacha Khan directly or with him or under him. Pacha Khan came to the village elder, Nazim, to gather and rise up against the Taliban. The village elder told my father to go and tell the other villages close to our village to get together and that we needed to unite against the Taliban. Whatever he did, it might have been indirectly for Pacha Khan but Pacha Khan was working with the Americans and he was in the government at that time.

Tribunal President: Can you give the name of the elder?

Detainee: Nazim or Nazim Khan.

Tribunal President: Thank you.

3.a.7. Pacha Khan, a renegade Pashtun Commander, has been conducting military operations against the Afghan Transitional Administration (ATA) and coalition forces.

Detainee: At the time we got captured he was working with the Americans. I've been here all this time so I have no information if he is still working with the Americans or if he turned.

Tribunal President: Okay, thank you.

3.a.8. The detainee stated he owns one or two Kalashnikov rifles with 30 rounds of ammunition.

Detainee: Yes. In Afghanistan everyone has a weapon in their house for personal safety, especially in Khost province and the Paktia province. The government allowed the people to keep a weapon in their house because they are in border cities.

3.a.9. The detainee was captured with communication equipment.

Detainee: That is not true. They did not capture me with any equipment. I did not have a radio in my house. I did not see that kind of thing in my village either.

3.a.10. The detainee admits seeing this type of equipment in the possession of Taliban members.

Detainee: They did not capture any kind of radio with me, in my village or in my house. They asked me and I told them that yes I did see a radio before in my life during the Taliban time. When we go to the bazaar you see the Taliban people, they were playing the radio for communication. So I did see them, but they did not capture anything with me.

3.a.11. Coalition forces were fired upon during the capture of the detainee and three associates.

Detainee: No that's not true. We did not fire on them and I'm sure they do not have any evidence showing there was a firing.

Tribunal President: Does that conclude your statement?

Detainee: Yes.

Tribunal President: Thank you.

Detainee: How about the other allegations you have?

Tribunal President: That's all we are concerned with at this point.

Detainee: Okay.

Tribunal President: At this point I would like to bring in the witnesses. I'd like to go over the procedures we will use.

Detainee: Can he explain it to me again?

Tribunal President: Is that what he asked?

Translator: Yes.

Tribunal President: We will take a brief recess shortly and the panel will leave the room and you will remain in your seat. The Personal Representative and the Translator will stay also. Your witness will be brought into the room and placed in the seat over on the other side of the Translator. Rules require no communication be conducted so please refrain from any greetings or any other conversation.

Detainee: What if I have a question for the witness.

Tribunal President: I'm getting to that. We will reconvene and bring everyone back into the room and I will then permit you an opportunity to greet and to identify the witness. At that point, you and your Personal Representative will be able to ask questions of the detainee to provide the testimony that you think will be helpful to us. I would ask that you please keep your questions short and wait for the translations. After you have received all the testimony that you wished from the witness I will then ask the Personal Representative, the Recorder and the Tribunal panel if they have questions for the witness. During our questioning of the witness I ask that the detainee remain silent.

Detainee: The witness?

Tribunal President: We are going to ask questions of the witness, you will still be in the room, but please do not add or ask questions. After we have asked our questions of the witness you may provide additional information or ask follow-up questions.

Detainee: What if the witness wants me to clarify something?

Tribunal President: If we have a question with the witness and he asked it to me and it requires your involvement I will facilitate that. The procedures I have gone over is for an orderly and understandable process, and he will have plenty of opportunity to ask questions and to clarify matters during the witness testimony. One other point I want to clarify, before the witness provides any testimony, before your questions, I do require the witnesses to take an oath to tell the truth. Do you have any questions?

Detainee: From the witness, do I ask the questions from my allegations?

Tribunal President: Yes. That would be very helpful if you could address those allegations with your witness. You don't necessarily have to cover all of those, but those points that you think your witness could help us with, would be very helpful.

Detainee: Okay.

The Tribunal President called for a brief recess to bring in the first witness, Zaman Khan.

The Tribunal is called to order.

Tribunal President: Zaman Khan, good morning.

Witness 1: Thank you.

Tribunal President: Zaman Gul, is this the witness that you requested.

Detainee: Yes. I have two witnesses.

Tribunal President: Yes, this is just the first. Zaman Khan I believe you understand as a witness we require you to take an oath.

Witness 1: Yes.

The Recorder administered the Muslim oath to Witness #1, Zaman Khan.

Tribunal President: Thank you. Zaman Gul you may ask the questions of the witness to provide the testimony that you require. Your Personal Representative may assist you.

Detainee: He can tell it to me and I will ask the witness either way.

Tribunal President: Any method is proper with me.

Personal Representative: Do you want to ask your questions or do you want me to ask first and you can add? If you have additional questions you may ask.

Detainee: Okay. I remember all of the allegations I can I ask him.

Tribunal President: That's fine.

Detainee: So I will ask him and then translate to the Tribunal each question.

Tribunal President: We appreciate that you wait for a translation so we can participate in the questions.

Witness 1: Okay.

Detainee's questions for witness #1, Zaman Khan

- Q. Explain to the Tribunal about when I went to Saudi. Did I go through the proper channels, the proper way, or was it illegally?
- A. He went to Saudi the proper way. That's how it was in that country. He went the right way.
- Q. When I came back from Saudi did I come back because the Northern Alliance took Kabul?
- A. That's true that he came during that time when they captured Kabul. (Inaudible)
- Q. I know he already answered it but did I come back just because of the Northern Alliance recaptured Kabul, did I fight against them or why did I come?
- A. That's true he went to Saudi and most Afghan people are still going to other countries to make money to support their families. They spend a couple of years there and then come back to see their families. He went and he was there and he came back to see his family. He did not come back to fight against [anyone] or to be a part of that thing. He just came back because of his family.
- Q. Was there a Taliban commander that my father was hosting named Jalaluddin? There were some other documents saying that other people told him that he was the person at our house and that they remember our house.
- A. That is not true that Sarajudeen was hosting a Taliban commander named Jalaluddin. Whoever told them, whoever reported it in the newspaper it is not right. He swore on that there was no such person in our house. We have a villager who swore that there was nobody in our house and there was no Taliban commander that even came to our village at that time. It is not true. The bombing that happened to our house was wrong. Somebody misled the Americans.
- Q. The other allegation is that my father worked for Pacha Khan. I answered that my father did not work for Pacha Khan directly. Pacha Khan asked the village elder, Nazim that he needed to help against the Taliban. The village elder told the villagers, including my father, that he needed people to gather against the Taliban and that Pacha Khan was the government at that time working with the Americans. Is that true?
- A. It's true that my brother did not work for Pacha Khan directly. Pacha Khan asked our village elder to provide people to gather against the Taliban. The village elder asked my brother to let other villages know that we are gathering against the Taliban. So he did

that for the village elder not for Pacha Khan. At the time we got captured, Pacha Khan was actually with the government and he was working with the Americans and the new Afghan government, President Karzai. At that time, he was a good man and he was against the Taliban. In the meantime, if he has changed, if he has turned over on the Americans we are not responsible for that.

- Q. The other allegation is that when we got captured they found communication equipment, a radio, with us. Testify that that is not true. Did they capture any communication equipment or radios with us? Another allegation on me is that I told them that I saw communication equipment or radios with the Taliban. I did tell them that the only time I saw that kind of equipment, during the Taliban, is when they were using it. Americans did not capture any equipment or radios with us nor had I seen any of that kind of equipment in my village.
- A. It is not true that they captured communication equipment or a radio with us. There was no radio with us at that time. There was not a radio in our house. There was no radio. I saw a radio during the Taliban time, but when we were captured there was no radio, not in the house or even the whole village. We never saw a radio with anyone from our village.
- Q. Another allegation on me is that when the Americans came and captured us, somebody fired on them. My answer was that when they captured us we were sleeping and if you are sleeping you cannot fire on them.
- A. It is not true. Nobody fired on the soldiers and nobody fired on the aircraft. We were sleeping at that time. They woke us up. We did not have any gunshots before and we did not have any gunshots when they captured us. So there was no gunshot, we already told them that this was not true. All the allegations that he asked they are all not true.
- Q. Another allegation is that I had two Kalashnikov's in our house. I told them that all people in Afghanistan keep weapons in their house, especially in our province, Paktia. The government allowed us from the beginning that we can have a weapon in every house for personal safety and because it is a border area. It was never illegal, especially in our area. The government actually took it away from the people in other parts of the country before.
- A. Whatever Gul Zaman said is true. When Zahir Shah was king he did especially for the people in Paktia favors. He allowed things for them. One was to keep a weapon in their house. Either one or two of any kind of weapon, especially small weapons for personal protection. The second was that they didn't need to participate in the military. The government would not ask them to join the military unless they wanted to. The third thing was that the people in Paktia didn't need to pay a tax on their land. There are a few things that King Zahir Shah let us have. It is true that we had a weapon in our house but that was for personal safety for us and for our animals, any cow or any animals to protect them at night from the wild animals that will attack our animals. It was for our personal safety not to fight or use against someone.

Detainee: Personal Representative is there any other questions or allegations left for me to ask him.

Personal Representative: I just have one further question.

Personal Representative questions for witness #1, Zaman Khan

Q. Do you know if Gul Zaman had any relationship with Pacha Khan?

A. No. Gul Zaman has no relations with Pacha Khan at that time he was in Saudi.

Tribunal President: (To the Personal Representative) Answer the detainee's question. Did he address all of the allegations?

Personal Representative: Yes.

Tribunal President: I would now like to get into the questioning of the witness by the Tribunal. Personal Representative do you have any further questions?

Personal Representative: No sir.

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

Recorder: Yes sir.

Recorders questions for witness #1, Zaman Khan

Q. You mentioned you were sleeping when you guys were captured. Do you remember if you were inside or outside? Can you give us a location?

A. Inside the house.

Q. Based on your observation, were Zaman Gul and Sarajudeen very close? Did they do a lot of things together?

A. Yes, they were close to each other.

Q. You mentioned the village elder. What was the name of the village elder?

A. Nazim.

Recorder: Thank you.

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

Tribunal Members questions for witness #1, Zaman Khan

Q. I would just like to clarify a few points, if I may. You are the brother of Sarajudeen?

A. Yes.

Q. You live in the same house as your brother?

- A. Yes, we all live in one house.
- Q. Zaman Gul did as well?
A. Yes, we all live in the same house.
- Q. You've known him his whole life?
A. Yes because of my relation to Sarajudeen.
- Q. Do you live in a place called Ani Khel?
A. It's Zani Khel.
- Q. Is that best characterized as the village?
A. It's a tribe name.
- Q. What is the name of the village in which your house is?
A. The house is between two villages. Sometimes when we send a letter with the address of one village or sometimes the other village.
- Q. Can you give me the names of the villages?
A. One is Shamawat village and the other is Khojari village. It is between those two villages. The tribe name in Zani Khel.
- Q. It is correct that you were apprehended sometime around November of 2001?
A. Since I am uneducated and I don't know the dates in our country all I know is that I have almost three years and maybe a month more than that. So now you can look back three years from today or maybe a month more than that.
- Q. Are you familiar with the name Wazir Khan Zadran?
A. No I don't know this person.
- Q. How about the name Zakim Khan?
A. I don't know that name either.
- Q. Do you know if your village elder had a relationship with Pacha Khan?
A. I don't know how much of a relationship they had but they both were commanders for another person together before the Americans came. That persons name was Pir.
- Q. Pir was a commander for the Taliban or against the Taliban?
A. Against the Taliban.
- Q. You mentioned before that your nephew went to Saudi Arabia the proper way. Could you describe what the proper way is for a person to travel from Afghanistan to Saudi Arabia?
A. In the time of war, Pakistan let Afghans come to their country as refugees. They were keeping all the Afghans as refugees for a long time. Another thing they did for those refugees is they allowed them to fly from their country and they would make legal

documents for them to go to other countries to work and to support their families. Arab countries, especially Saudi Arabia, did that for Afghanis. They will accept either documents from them, or if they have documents from Afghanistan before, or if they have documents from Pakistan. They know that they are Afghanis, but they will accept them with Pakistani documents because they know that they are refugees there. That was the legal way for refugees to go through the proper channels and get documents from the Pakistani government and then go to Saudi. Saudi allowed it. They allowed them to work in their country and support their family.

- Q. What kind of transportation did the American forces have? How did they get to your compound?
- A. It was nighttime and I don't know how they got there. They woke us up and they tied our hands and captured us. Then a chopper came and they put us on the chopper. We heard the chopper but I don't how they got to our compound.
- Q. The helicopter came after they captured you?
- A. Yes. It was nighttime and they captured us and took us out of our house and the chopper landed and they put us on the chopper.

Detainee: I would like to ask something of my Personal Representative.

Tribunal President: When we're complete with our questions, please.

Detainee: I have something to clarify, that's why I need to.

Tribunal President: If you would please wait until we finish our questions then I will give you the opportunity to clarify.

Detainee: I need my PR to ask something for me.

Tribunal President: Again, please wait and if we need to review earlier testimony to help you with that question, we will later. I would like to finish these questions first.

Detainee: He answered all of my allegations and he should ask him things concerning my allegations. Why are they actually asking more questions?

Tribunal President: These are questions relating to the evidence that we have that your witness may be able to answer.

Detainee: He answered and if you have more information or details you can ask me and I can answer them.

Tribunal President: Right now this is now regarding the witness testimony so I need you to refrain for a little while longer.

Detainee: He answered all of my allegations.

Tribunal President: I understand. I have a few questions.

Tribunal Presidents questions for witness #1, Zaman Khan

- Q. You provided testimony regarding the attack or the bomb on your brother's home. Where were you on that day?
A. I was not there. I was in Gardez.
- Q. Do you know where Zaman Gul was at that time?
A. He was in Saudi.
- Q. How long after that event were you captured by U.S. forces?
A. I really don't follow the dates. Usually we know the beginning of the month when we look at the moon. Approximately a month and a half to two, two and a half months.
- Q. That's very helpful, thank you. Both yourself and Zaman Gul were captured at the same time, the same night? Is that correct?
A. Yes at the same time.
- Q. From the information here you also lived with your brother. All three of you were together at the same time? Was this the same home that was bombed previously?
A. No; it is a different house.
- Q. Who's house were you staying at when you were captured?
A. I was at a villager's house. He gave it to us to share.
- Q. How far away from your brothers previous house was this?
A. I don't really remember how many meters it was from each but they are close to each other. I don't know exactly how much.

Tribunal President: Thank you. I have no further questions. Zaman Gul did you have any follow-up questions you would like to ask the witness?

Detainee: No I don't have any questions. I have one more question.

Tribunal President: Okay.

Detainee's follow-up questions for witness #1, Zaman Khan

- Q. The last question I wanted to ask to the witness is what happened to us the whole time that we are here, and people bomb each other and the Americans. Things are different and not true. Maybe they are our enemies; maybe they have a personal dispute with some people. Do you have any idea of who did that? What kinds of people are doing this to us?

- A. It's true that there are a lot of Afghans that are doing that to their people due to personal disputes or some problem with the family or maybe the tribe. They lied to other people or made false accusations against them, but whoever told the Americans or the media or the newspaper people, the Tribunal should only consider the people that come here and testify on anything. If the person says something and they don't have any witnesses for it or he cannot come and testify on those things then you should not consider it. Instead consider the people who give you a statement and they took the oath and testify on the questions or allegations. That's my opinion on how the Tribunal should consider this testimony instead of what other people tell them or to the country or to the media or to the forces.

Tribunal President: Zaman Gul does that complete your questions of the witness?

Detainee: Yes.

Tribunal President: Before we recess, if you would like to greet in any other fashion, your relative. I still request that you allow us to translate so that we are aware of your conversation please.

Detainee: There is no need for that.

Tribunal President: Okay.

Detainee: We usually ask each other how are you doing? How is your time going here?

The Detainee and Witness #1 then had a short dialog.

Translator: They asked each other how they are doing and if they are feeling good, are they sleeping well, how is your time going. Then they said God be with you and that was it.

Tribunal President: Okay thank you. Zaman Khan, thank you for coming this morning.

The Tribunal President called for a brief recess to remove witness # 1 and to bring in witness #2, Mohammed Gul. The Tribunal was called to order.

Tribunal President: Mohammed Gul, good morning.

Witness 1: Good morning to you too.

Tribunal President: Zaman Gul, is this the witness that you requested.

Detainee: Yes.

Tribunal President: Very well. Mohammed Gul you understand that we require you to take an oath to tell the truth.

Witness 1: Okay.

The Recorder administered the Muslim oath to Witness #2, Mohammed Gul.

Tribunal President: Thank you. Zaman Gul you may ask the witness your questions.

Detainee: Should I start asking them?

Tribunal President: Yes, please.

Detainee: Does he know the procedure that I ask a question and he has to wait for the translation?

Tribunal President: Thank you. (To the witness) It's very important that we understand what is being communicated, so please wait for the translation.

Witness 2: Okay.

Detainee's questions for witness #2, Mohammed Gul

- Q. The allegation on me is that I went to Saudi Arabia in 2001. I don't know the exact date or if that is the time but I did go to Saudi. The allegation is that I went there with false documents. Is that true?
- A. That's true that he went to Saudi. He went to Saudi with a Pakistani passport because there was no government in Afghanistan. There was no official passport issued to Afghans so Pakistan allowed them to send those people to other countries on their passports. Saudi also knew that those people were Afghans with Pakistani passport. It was the proper way; probably four and a half million people did that.
- Q. The other allegation that some guests came to my father's house. It was a Taliban commander of the name Jalaluddin. They have a news article saying that he was there. Is that true or not?
- A. I'm their villager and I have no knowledge of that person coming to their house or the village. Whoever said that, it is a lie.
- Q. The other allegation is that my father worked with Pacha Khan. I told them that he did not work for him directly. The village elder, Nazim Khan, told him they need people against the Taliban, maybe it was for Pacha Khan but he did not work with him directly. Is that true or not?
- A. That's true. Maybe his father worked for Pacha Khan indirectly but he was the governor of Khost and he was working with the Americans. Not his father but a lot of other people, at that time, helped him because he needed people against the Taliban. That is why people were helping him.
- Q. The other allegation is that they said we had a radio in our house. I told them that we did not have any radio in our house and I did not see any radio with anyone in the village.

Maybe during the Taliban time they were using the radio but that kind of radio I did not see in my village or my house.

- A. That's true they did not find the radio with us. They showed me a picture here and I'm not sure that they are showing me a picture of any radio to see if I know this. They are saying that they found this when we got captured. Personally I never saw this radio in their home or in my village, with anyone. It was the first time that I saw it when they showed me the picture.
- Q. The allegation is also saying that when the soldiers came and captured us, somebody fired on them. Since you are our villager if somebody fired on them, you probably heard the firing. Did you hear any firing that night?
- A. Not true. There was no firing that night. They got captured while sleeping as well as I was. If somebody fired on them, there would have been crossfire as well. I did not hear any firing that night.
- Q. The other allegation is that they are saying that they found two or three Kalashnikovs in my house and I told them that since the time of King Zahir Shah we were allowed to have weapons in our house for personal safety not for fighting or to use against someone.
- A. That's true. Before Zahir Shah, his father, Nadir was there. He (Nadir) even said to the people of Paktia they don't have to join the military and they can keep a weapon in their house for personal safety due to it being a border area and it's in the mountains.
- Q. Another allegation is that they are saying I came back from Saudi during the time. I told them that I went to Saudi to make some money to support my family. Most people when they didn't like the area or couldn't find a job they go back to their home. That is what I did, that's why I came back to see my family not for the reason they put on me.
- A. It is true that he went to Saudi and most Afghans go to Saudi for work because there is no work in Afghanistan. They have to support their family so they go there to find work. He went there and then he came back to his family for that and not for any other reason.

Detainee: He is my villager so if you ask him any personal questions about me he probably will know. But if you have a personal question about me you can ask me. Because he is my villager and he probably knows me well personally.

Tribunal President: I understand. Does that complete your questions?

Detainee: Yes.

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

Personal Representative questions for witness #2, Mohammed Gul

- Q. Mohammed Gul do you know if Gul Zaman has any relationships or business relationships or did he work with Pacha Khan?

A. No Gul Zaman never had any relationship with Pacha Khan. He never worked for him. His father never worked for Pacha Khan directly but he probably did something for him through a village elder.

Q. During our interview for the witness before, you mentioned you were captured before Gul Zaman. Can you explain to the Tribunal, you were not captured at the same time.

A. Sir, I did not say that I got captured before them. I said that they got captured before me. They were sitting and the American forces they captured them. They were sitting in one place. Then they captured me and brought me to them. So we were all four sitting together.

Q. You did not see a radio during the capture?

A. No. They were captured before me they searched their house. Then the soldiers came and captured me and searched my house. At the time of the capture, they brought us together and nobody mentioned any radio. They did not show us that they found a radio in the search and I did not see any radio in my village.

Personal Representative: Okay. That's all the questions I have.

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

Recorders questions for witness #2, Mohammed Gul

Q. How far away do you live from Zaman Gul?

A. I'm not exactly sure how far we are from each other. There is a space between our house and their house. It's close to each other.

Q. Do you know of any reason why they picked you out of the whole village?

A. They were searching the house and then they found an Afghani passport and an international driver's license so they thought that I was a big fish, a big person so that's why they brought me.

Q. They searched everybody's house?

A. I don't know about the whole village but they searched their house and they searched my neighbor's house and then after the neighbors they searched my house.

Recorder: I have no further questions.

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

Tribunal Members questions for witness #2, Mohammed Gul

Q. Before you were apprehended, had you heard the name Jalaluddin Haqqani?

A. Yes I had heard the name.

Q. Who is he?

A. He is from Paktia, the same province.

Q. What does he do? Why is he involved in this?

A. They did not ask that question in Kandihar. They asked that when I came to Cuba. They asked if Jalaluddin Haqqani came to our village. I told them that I had heard the name but I never saw him and he was not there. If he was there then I should know because it is our same village.

Q. Before you were captured, when you had heard the name, in what context? Why did you hear his name? Who is he?

A. I heard his name ten years before that. He was a commander at that time. I heard his name on the radio all the time.

Q. Is he a commander for the Taliban?

A. I'm not sure about that during the time of the Taliban. He was a commander in jihad against the Russians.

Q. Were you in the village the day Zaman Gul came home?

A. Yes I was in the village.

Q. Was that before or after Pacha Khan or his men asked for his father's help?

A. It was before he came home.

Tribunal Presidents questions for witness #2, Mohammed Gul

Q. Where were you when Zaman Gul's father's home was bombed?

A. I was in the village at my house.

Q. How are you related to Zaman Gul?

A. No relation.

Q. You're not from the same tribe?

A. Yes.

Tribunal President: Very well. Zaman Gul do you have any follow-up questions for the witness?

Detainee: No. All the questions I asked him if it were true and he said yes.

Tribunal President: That concludes the witnesses' testimony. If you would like to have a simple greeting before we recess you may.

The Detainee and Witness #2 had a short dialog.

Translator: He asked how are you doing, are you okay? He asked if he wanted some water and he said no. That's it.

Tribunal President: Mohammed Gul thank you for coming this morning and testifying at this hearing.

Witness 2: Thank you to all of you to give me a chance to speak.

The Tribunal President called for a brief recess to remove the witness. The Tribunal was then called to order.

Tribunal President: Zaman Gul we are now to the questions we would like to ask you. Personal Representative do you have any questions for the detainee?

Personal Representative's questions

Q. Did you know if your father was ever involved with the Taliban?

A. No.

Q. Do you have any explanation for why the capture team would state that a communication device or a radio was found during your capture?

A. No there was no equipment or radio captured with us and I'm sure there is no evidence showing that they captured a radio with us or in our house. They knew when they came to our house, they knew they were going to capture us. If they have that information they should evidence showing that yes there was some kind of device either at our house or captured with us.

Personal Representative: I have no further questions.

Tribunal President: Very well. Recorder do you have questions for the detainee?

Recorder: No sir.

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

Tribunal Team's questions

Q. I'm still trying to figure out who Jalaluddin Haqqani is. Is it true, as far as you know, that he was a commander of Taliban forces in the southern provinces of Afghanistan?

A. Just like you, I don't have any information about him.

Q. Here's the part that puzzles me. Why did the villagers who informed on your father come up with this name?

A. Maybe it is a false report. Any personal differences, maybe it was that name. I don't know who did it and why they said that name. Maybe they confused my fathers name Sarajudeen with Jalaluddin. Maybe it was some miscommunication or misunderstanding.

Q. Are you familiar with this article that was written in the New York Times? Have you seen this before or a translation of it?

A. When?

Q. This article (referring to the unclassified exhibit), it was written February 2, 2002.

A. Yes, I heard about it. If you have a question about the article you can ask me. Personally I wouldn't believe that without any evidence what is written in there. If you have a question you can ask me and I will say it.

Q. Understood. When did you arrive back from Saudi Arabia into your village? If you don't know the specific month or year was it before or after Ramadan of that year?

A. It was the 17th day after Ramadan.

Tribunal Member: 17th day after Ramadan. Okay just give me a second please. (Referring to notes.)

Q. This was right after your compound was bombed by the Americans?

A. Yes.

Q. How did you know who was staying or not staying in your family's compound?

A. When I came, my family members told me. Guess what happened to us? Because of a mistake and miscommunication. My villager told me also that it was a mistake, what the U.S. did to our house. I told them that the mistake probably happened because it was Ramadan time and usually during Ramadan they wake up after midnight to get food ready to eat before the dawn. The women get up and they usually cook something like bread and they make fire. Somebody probably saw that somebody was moving in the house and thought something was going on inside the house. But it was for Ramadan, that they were preparing food for it. It was probably a mistake.

Q. You were there when Pacha Khans representatives approached your village elder and your father about volunteers for military service?

A. I wasn't there.

Tribunal President's questions

Q. I would like to clarify a question that the other panel member just asked you; about the New York Time's article. When was the first time you learned of this article?

A. What do mean, what happened?

Q. Where were you first given or told about this article? Was it here at Guantanamo or in Kandihar or somewhere else?

A. I did not know before about this. The question was not clear. The interrogator told me that they bombed our house.

Q. Okay. I will try to clarify this. More specifically about this article saying that someone important was at your fathers house. I believe that comes from this article. I was just

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wondering when you first heard about this article. Was it during the interview here in Guantanamo or was the first time you heard this when your Personal Representative informed you?

- A. The interrogator has been telling us for the last three years that they bombed our house because somebody important was there, that my father hosted someone for the commander. We told them that it wasn't true.

Tribunal President: Very well. Just to clarify with the Personal Representative, did you provide a translated copy of this article to the detainee prior to this hearing?

Personal Representative: Yes sir, I did. We discussed it with him and gave him an opportunity to look at it, although he declined to read it.

Detainee: If you have a question, I will read it. I will say if it's true or not. If it's true I will say it is true, if it is wrong I will tell you.

Tribunal President: I understand. I think we've addressed it adequately during this hearing. I wanted to clarify that you...

Detainee: Yesterday in the newspaper it was also saying that what happened to us was a mistake and it was not right.

Tribunal President: We recognize that. I wanted to make sure that you had an opportunity to read this article before the hearing.

Detainee: Do the Americans know now that it was a mistake or did they know before?

Tribunal President: I'm not sure what America thinks of it, I just know it has been provided for us to consider. We understand your statements regarding it, very well.

Detainee: I don't know why they have kept us here for three years. They knew it was a mistake and that we are innocent.

Personal Representative: Sir, just one point. The detainee, I didn't explain (inaudible). This is a newspaper reporter's account of the activity. It is not an official document and it is not any U.S. official statement. It's weighing on that alone.

Detainee: The general in the area told the news conference that it was a mistake.

Tribunal President: Personal Representative is correct that this piece of evidence is not an official United States government position.

Detainee: He didn't mean the reporter, he thought the person he was actually talking about was the guest, Jalaluddin.

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Tribunal President: Understand. Some reporter is talking about certain things but as far as this Tribunal is concerned that is worth being talked about in that article is not necessarily the government's position.

Q. I have one other question regarding your testimony. Can you tell us a little more detail about the night you were captured?

A. You can ask me in short detail or do you want me to tell you the whole long story?

Q. We heard little pieces here and there. I would like to hear from when you woke up to when you were taken away in the helicopter. Your account of what happened.

A. Do you want to know specific times or how it happened? Because we have been telling the whole story for the last three years and it's in our file. If you have some specific question I can answer it.

Q. As you know we have not seen your file. We may see it later and have an opportunity to read what you said before. This is an opportunity for you to tell us in any way you wish, not to read what others thought you said.

A. I don't know if you know about our file or not. I will tell you again.

Q. I would appreciate it, I really would.

A. It was the nighttime, but I don't know the exact time. The Americans came to our house and they captured us. Then they brought us from there to Kandihar. It was my father, my uncle, a villager and me. Then from there they brought us to Cuba.

Q. Were all three of you asleep?

A. Yes.

Q. Did you or anyone in the house resist?

A. Nobody resisted.

Q. Did they ask for identification and did you provide it?

A. The person, the linguist and I did not really understand each other because he was not a Pashtu speaker. We did not understand each other well.

Q. The people capturing you did not have a translator in your language? Is that correct?

A. No.

Q. No, there wasn't a translator with your language?

A. We speak Pashtu and they didn't have any. We don't understand other languages like Arabic, English or any other.

Q. Did you know if they took your identification papers?

A. What kind of papers. We do not have any ID cards in Afghanistan.

Q. Did you still have your passport that you used to travel from Saudi Arabia?

A. I had it in my house at that time. I don't know if it is still there or what happened to it.

Q. Okay. To clarify, that passport was a Pakistani passport?

A. Yes.

Q. You had come from Saudi Arabia home to visit. Did you have a return ticket to go back to Saudi Arabia to continue working?

A. I went to Saudi and usually people go to work in Saudi. I went there and I had a passport with me when I came back and I had a valid Visa on it. I spent my time in Saudi, my daily work with someone helping them in a store. I could not find any good job for me. Plus, I could not speak the language; I had a language problem in Saudi. When I heard that there was no fighting in Afghanistan I thought that I should try if the country's good, because I was a shopkeeper before. Let me see if I can do a business in Afghanistan that way I can be with my family and that is why I came back. If I liked it I would stay, if not and if I could not find work then I would go back and try in Saudi again.

Tribunal President: Zaman Gul do you have any other evidence to present to this Tribunal?

Detainee: I don't think it is going to help me because the whole time it has not been helping me.

Tribunal President: Okay.

Detainee: The whole time they ask us questions and we tell them the truth about what happened to us. How it was a mistake what they did. They will not consider anything that will make them wrong. That is why I don't think they are accepting anything from us only if they have some other information they can give it to them. They will not consider anything that will prove our innocence and which will release us from here. So this whole time I figured it out that it is not going to help us. Like the allegations on me I can (inaudible) about my allegations. The first allegations on me that I went to Saudi, you know a million refugee Afghans went to Pakistan and other countries. There was no work in those countries so they had to go to other places to find a job to support their families. How come this is an allegation on me that I went somewhere to support my family; it wasn't illegal, it was legal. A lot of people are still there and they are still going through that channel. How can it be an accusation on me that I did something wrong? Pacha Khan, I did not help him, I had no association with him. He was working with the Americans at that time. If somebody helped him at that time, was it the wrong thing to do? About the allegation, I told them yes I had them in my house. It is not something you can hide because in Afghanistan every person has a weapon in their house for personal safety. It is a crime to have a weapon in your house for personal safety? About the radio, I told them and other people told them there was no radio with us at that time. I saw people using that radio before. Sometimes people were using it to talk to their friends, from one place to another place, just for chatting. That should not be a crime. Even for those people that are using some kind of device. About that person being the commander, twelve of my family members died in that attack and three of my family members have been in prison for three years and one of my villagers just because of that person. We told them that he was not there and there is no evidence showing that he was there. Why would we keep him secret after all of those losses we had? Consider if he was there, just for that one person, why are you killing twelve innocent people, children and female; and keep three people for this long time? Because of one person? My father is here also

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for three years. From Childhood through today I never heard any American with proof that he was with Taliban. He never worked with them. My father, uncle and myself did not know how to read the holy book Koran and they kept us here for three years, and the thing that we helped the Taliban, how could we help them if we didn't know how to read our holy book? We are uneducated. Helping against the Taliban, which should be a crime if somebody helped against the Taliban. If people are doing it now, probably in the future they will ask that of somebody why did you do that and they should not be held accountable for it, they should be appreciated for their help. There is nothing that we are keeping secret. Twelve people died and three people have been in prison for three years. There is nothing that we are hiding.

Tribunal President: Zaman Gul I totally understand your points regarding the Summary of Evidence.

Detainee: I said it before, I don't know how much of what I told you you will believe because it is in the past. You are the last hope, you should consider.

Tribunal President: As you heard us promise before, we will consider that information very carefully as we continue our work.

The Tribunal President confirmed with the Personal Representative that he has no further evidence to submit during the unclassified portion of the Tribunal and that the Detainee had no previously approved witnesses to present to the Tribunal.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and before the open session was adjourned the detainee added:

Detainee: I ask forgiveness from the Tribunal and from my PR. If I said anything wrong, if I hurt anyone's feelings I'm sorry for that. Thank you for giving me your time.

Tribunal President: We understand this is a difficult process and I appreciate your cooperation.

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