

Summarized Sworn Detainee Statement

The Tribunal President read the hearing instructions to the detainee. The detainee confirmed that he understood the process and had no questions.

The Recorder presented Exhibits R-1 thru R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

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

The detainee did take the Muslim oath.

The Personal Representative read the accusations to the detainee so that he could respond to the allegations. The allegations appear in italics, below.

Detainee: It has been three years since I have been detained here. I have been wrongfully accused. I did not do anything at all. I am not an enemy combatant. All the allegations against me, if they are true then I would not mind if the tribunal gave me any punishment to keep me here for the time I have been here. None of this is true. They do not have any evidence that I did these allegations against me. I am looking for justice, because I have been wrongfully accused and I am innocent. In my entire life I only seen Padsha Khan for five minutes and that was after the Taliban left and the Americans came. He was with the Americans. I only saw him for five minutes, he did not know me and I do not know him. The second allegation that I secured the village of Khumdi, I do not know where this village is. If anyone in my area knows this village then I would be wrong because I have no idea where this village is. I did not secure any village by this name. I didn't do anything like that. Padsha Khan I only know his name. I did not know him personally and he did not know me. I am not a member, friend, soldier or have any relation with that person. Why would I do something like secure the village or work for him? I have never done that type of work because I don't know that person. If I knew him then you could say that I worked for him, but I never worked for that person. About the gun, this was my personal gun. I had a license from the security commander Misure Ha(ph) that they issued to me so I can carry it by law. I understand that he issued me a permit, but I did not have any particular way of how I would use the weapon it was my personal choice. When I was in possession of this gun I never did anything wrong with it, I never fight with it or shoot anyone with it. If you have any evidence of someone saying that I did something with that gun and you have proof then I would ask of that proof, but I never used that weapon. I just used it for personal safety and I was carrying it. About the 40 to 50 personal that I was a member of their group, it was the people who were helping the Americans when they first came to the area. We were helping the Americans with security to make sure the are secured and I worked for Mohammad Yousef(ph) the commander at that time. All of those people are still working for the American base in the area. Whatever we did, we did not do against the government, we actually did to help the American government because they were new in the area and it was our job to protect them and let them know about the area. Out of all the things I said,

if anyone says that I lied even one word then you could say all my statement is a lie, but everything I say is true. The only thing I did to help the (inaudible) of my country was that I came back to my country and help the Americans because they were new and I knew the area and I know the people so I worked and helped them. That was the only thing I did in my life relating to the government other than that I never did anything with any group or anybody else. If I worked for Padsha Khan like they said then he would not have turned me over to the Americans if I was his soldier. He did it because I did not know him. I have never worked for him. In the beginning when the Americans first came to the area Padsha Khan was the one who was the helping the Americans and working for the Americans. They were providing him money and weapons and he was recruiting people for the Americans to help in the region. He was a good man at that time working with that Americans. Now if he is a bad man I did not have anything to do with him. I never had anything to do with him before but I know him at that time because he was working with the Americans and when I captured he was the one who did it. Now if he is a bad man I should not have anything to do with that. The person I worked for, Mohammed Yousef(ph) he was the Commander of the Afghan military working with the American base at that time when I worked for him and he is still working for the American base in the area. That is why I put him down as a witness because he can testify to that, I use to work for him. Three years ago anyone who was working with the Americans when I was in the country, if they turned against the Americans I should not be responsible for that. The Americans worked with him and they should know where this person is. They can also check my records of what I did when I was in the country and you can also ask the Afghan Commander, he should have a record of me when I was working for him. The only is that I have been here for three years and I was telling people that I was a friend of the Americans and I worked for them. The people here are either Taliban or al Qaida. If I was them then I would say you could keep me here for that long, but I help them and now in return I got three years in the prison over here. In the past three years that they have had me here anytime they come and ask me any questions or for any information I have helped the Americans I have never refused to answer any questions. I gave them any information that I knew, but I have been here three years and now they are saying that I might be an enemy combatant. That is why they are keeping me here. I have seen in the past three years that there were people who worked for Taliban and the al Qaida they are gone but I got these three and I am still here just because I worked and helped the Americans.

Tribunal President: Does that conclude your statement?

Detainee: There are a lot of things that they say I did, but I just want to make sure to answer all the allegations on me and just let the tribunal know what is right and what is not true. That is why just told the whole story other than that if they ask me more questions I will answer them but I don't have anything else to add to it.

Tribunal President: We may have some questions. I appreciate that.

The Personal Representative had a question.

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Personal Representative: When you were at the checkpoint and taken into custody can you tell us what happen at that checkpoint.

Detainee: It was about 1:30pm in the afternoon. I was going to Mediamshaw(ph), Pakistan because I have family there. It was four people in a corolla car. I was going on the road to Pakistan when I saw American and Afghan soldier at the checkpoint. When we got to that checkpoint they ask me to give them the weapon. They ask me to give them my weapon and I told them that I worked for the same government. The people with the American soldiers were Padsha Khan soldiers; they asked me to give them my weapon. I told them that I work for the same government and the same Americans and I have a permit from the government to carry it. You can check the permit and if I'm wrong then yes you can have the gun and if I'm right then I can carry it. I asked the commander of the Afghan military does he mind because I did not give him my weapon. He said that you couldn't leave the area; you will not go with those people. He went and talked to the American. Nobody ever asked who I am, what did I do, or where did I live. They just handcuff me. I'm not saying anything about the Americans because the American didn't probably know me and we could not speak the same language. The only thing is the Afghan people know me and they knew that I was saying that I work for the same government but they told the American something else and then they handcuff me. If I did anything wrong then I can say that they are right. They let the other three people go, my brother and two other friends they had weapons but they let them go. Since I argued with that Commander, I guess he considered it as an insult. That is why he lied to the American and probably told him a different story and then they captured me and brought me here. If carrying a weapon was a bad thing then they should not have let the other three people go home. It wasn't actually the weapon he just took it personally.

The Recorder had no further questions.

Tribunal Members' questions

Q. What is you occupation?

A. I was a shopkeeper.

Q. Did you have travel as part of that job?

A. What kind of travel?

Q. Let me take a step back. What did you sell in your shop?

A. Grocery and food.

Q. Did you have to go get the products or did someone bring the products to sell?

A. Yes sometimes I would go and buy the groceries at a store. Sometimes I would ask my brother if he could get it. If he can't then I would keep him in the store and then I would go and get his stuff, yes I do go and get the stuff sometimes. I would go for a week and buy the stuff and come back.

Q. What village are you from?

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- A. When I got captured I was in Afghanistan, but before I was living in Muzaffargarh(ph), Pakistan and the village name was Darga.
- Q. Is your store in Pakistan?
A. Yes before it was in that village.
- Q. Do you have a passport?
A. What country?
- Q. Either Afghanistan or Pakistan?
A. I have an Afghanistan passport.
- Q. When you were captured you were living in Afghanistan, is that correct?
A. During the Taliban time we were living in Pakistan. When they left I was bring my family back to Afghanistan. That is why I was working on bring everything back to Afghanistan, then I got captured before I could finish the transfer. Now all of my family has moved back and now they live in Afghanistan.
- Q. When you were captured do you know who was the governor of Pakia(ph)?
A. Bothcho Han(ph)
- Q. I noticed you said that your three year point is this month or next month. This says March 2002, so do you think it was January 2002?
A. That is wrong. It should be over three years next month.
- Q. Are you married?
A. Yes.
- Q. One wife?
A. Yes. Just one.
- Q. Do you have children
A. Yes
- Q. How many?
A. Three.
- Q. Do you speak english?
A. No
- Q. Your education?
A. No education.
- Q. Did everyone carry a gun for safety?

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- A. Outside the city area everybody carry a weapon because they might have a personal dispute or enemies. In the city only the people who carry a license or a permit from the government could carry a gun.
- Q. Have you ever had any military training?
- A. No.
- Q. Padsha Khan and Mohammed Yousef(ph) were they both helping the United States.
- A. Yes they both work with the Americans.
- Q. Were the both helping the same Americans at the same base?
- A. Yes the both work with the same Americans because when the Americans first came to the area they had a base in Sarobagh(ph) the one mentioned in the allegation. Mohammed Yousef(ph) was the commander of AMF (Afghan Military Force) for that base and Padsha Khan was the governor of Khowst with the base of the American soldier.
- Q. Is Mohammed Yousef(ph) or Padsha Khan against the Americans now?
- A. It has been three years since I have been here so I don't know if they are still working with the Americans or if they went against Americans because I have been here.
- Q. Do you know any Taliban or al Qaida member?
- A. No. I do not know them. I left Pakistan because of the Taliban and I came back when they left. In the beginning if I do know some people that were working with the Taliban then I probably mentioned in my interrogation.
- Q. When you were working for Mohammed Yousef(ph) what did you do?
- A. The American base was in Sarobagh(ph). That area belongs to the tribe. It was our area. We were helping the American when they first came. There was a main road going from Khowst to across the border and going through other cities. I was going through our property also. We put a check a point on that road to make sure that nobody would bring a weapon across the border and to help Americans so people would not bring any weapons to use against them. After the Taliban left there was no government in the beginning so everybody was fighting and getting weapons. Other tribes were trying to protect their area, so our people decided to go out and put a checkpoint on each road and make sure no one would bring a weapon to the area and harm their tribe, that's why we were actually doing it to keep the area safe and help the American soldiers.
- Q. You say your brother and two friends were in the car. Did they have weapons as well?
- A. Yes.
- Q. All three of them?

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A. My brother had a weapon, but the other two people didn't.

Q. Your brother and the other two were let go?

A. Yes.

Tribunal President's questions.

Q. I understood you say that when you were captured you on your way back to Pakistan?

A. Yes.

Q. Is there a problem carrying a weapon over the border?

A. No, that is tribal area. There is no problem if you have a license from the Afghanistan government. There is no problem to carry a weapon on either side, it is a tribal area and there no Pakistan government controlling the area so you can carry a weapon freely.

Q. So actually your tribe controls the border is what you're telling me?

A. All the border is tribal area and it is free.

Q. You said at the checkpoint there was an American and an Afghan, was the Afghan a member of your tribe?

A. Their faces were covered. I just knew one of the Afghan soldier commander Sabad(ph) who was working for Padsha Khan. When they first stop me they were asking me. I was giving up the weapon because I do have personal enemies. I thought maybe that if they all are working with the government, not because their faces were covered. That is why I wanted to keep the gun with me. They went and told the Americans something else and then they came and handcuff me.

Q. You talked about working with Mohammed Yousef(ph) did you receive pay for this work?

A. It was the beginning because the Taliban had just left. There was no official government in Afghanistan so we did not receive any salary from the government but we were getting money from the security commander for the area. It was not that much money that you have regular pay. After the Americans build a new government later on they started paying people salary monthly. In the beginning we were just getting money to support the family from the security commander.

Q. You talked about having personal enemies, was there anyone in particular that you had a problem with?

A. I don't know of anyone specifically that did that to me. When I was working for the American base somebody shot my brother in the leg, so we do have enemies that we have to watch for all the time that is why we carry weapons. I don't know which enemy did that to him. There was a personal difference somebody paid three hundred thousand Pakistani currency to kill my brother or me. We ask the person why did you take the money? He said "No I didn't take any money" and

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then we brought all the elders together and they found out that he did get some money. They blame him for that and later on when they got a chance they shot my brother. I was working with Mohammed Yousef(ph) at the base for two weeks when my brother got hurt and I took him to Pakistan. I spent two months in a hospital over there. When he got healthy we came back so we could bring the entire family to Afghanistan. They captured me and turned me over to the Americans.

Tribunal President: I would like to thank you for participating in this tribunal today.

Detainee: Thank you for giving me the opportunity and when you make a decision I would hope you will consider everything and all the truth I told you.

Tribunal President: Do you have anything else that you would like to say to us at this time.

Detainee: No I do not have anything else to say, but in the past three years I have told them everything that they have asked me, so when you look at my file later on any questions you may have, you will find it in my files. I answer every question that they asked me and sometimes they ask me to draw a map for them about the area and you will see that in my file. I answered all the questions that they asked me. Bill was my interrogator's name, he asked me how would I feel when I go back. I told him that if anything happen to me it was the American because they did not know about the people. They don't know who is a good guy or a bad guy. It was our own people that actually given them the wrong information. The only thing is that it has been three years and it shouldn't take that long for Americans to find the truth but once they find the truth and send me home. I told them anytime that they need me for any help or they come in my area and ask for my help I will still help them in the future. It has been a year since I don't tell anyone because he told me not to tell anyone. He told me when I go back, I can work for the American base again. I can actually go and give my name and they should have my record. I never told anyone again, this is the first time because in the past year nobody had interrogated me. It was the last interrogation that he did with me and he said the Americans did not have anything against me.

The Tribunal President confirms that the detainee had no further evidence or witnesses to present to the Tribunal. The Tribunal President explains the remainder of the Tribunal process to the detainee.

Tribunal President: Do you have a question?

Detainee: I gave them all the information about my family, my village and my entire tribe, and where they live. The Americans can find anything I did, my family did. They can find any information. I hope that after these three years of being here that when they make a decision, they know that the decision is based on the truth. The review board is looking to see if that person would still pose a threat to the U.S. or it allies. The

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Americans are not my enemy and I'm not their enemy. Whatever happened to me it was my own people did it to me. They handed me over to them. Once they find the truth then I will be happy with it because at least they found the truth even if it is after this long time. Hopefully when the decision comes they know everything and they know the entire truth. I hope that I get justice.

The Tribunal President finish explaining the remainder of the Tribunal process to the detainee.

Detainee: What kind of information should I gather?

Tribunal President: Unfortunately the Administrative Review Board is outside of what we do here but at a later date there will be an military officer assigned to you. If we confirm your status as a enemy combatant a military officer will be assigned at a later date to assist you in the Administrative Review Board process.

Detainee: What kind of people do they consider as an enemy combatant?

Tribunal President: We weight all the facts and based on the definition of enemy combatant.

Detainee: The definition of an enemy combatant. Does enemy combatant mean that I fought; I was a member of Taliban or al Qaida. If they do have evidence to support that then they can say a person is an enemy combatant other than that if the person never fought or brought any harm against them then that person should not be under that definition. They should look what did he do, what type of work he did, and what kind of damage he did to them or to the allies. That is why I was asking what type of people are they considering as enemy combatant. Are they putting everybody in that enemy combatant or just the people that did some bad things?

Tribunal President: We have pretty strict definition but in general it's a person that was Taliban or al Qaida or associated forces that were engaged in hostilities against us or our allies.

Detainee: I don't understand the process how they define someone as enemy combatant because in the beginning I was in Kandahar for three months. They had twenty people with me in one cell. I was the only person who was not a member of the Taliban or al Qaida. I didn't support or help them fight against the Americans. All the other people were members or captured in the battlefield. I know them, they were with me for three months there and then we came here and after the first year all of them are gone. I was the only person still here and it has been three years. I don't understand the process, how come they release the people that are either a member or part. Now I'm here under the definition which I did not do anything.

Tribunal President: I can't address whom they released and whom they haven't. I have no knowledge of that, but I will tell that we look at two things. We look at your oral

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statement and we look at the information that the Recorder will present to us to make our decision today.

Detainee: All of those people, they are gone. They should go in front of a tribunal because they were captured in the fight in Mazar-E-Sharif(ph). It was a lot of people that surrender to the northern alliance. Those people should go and face a tribunal. What did I do to wait all these years to see the tribunal? They will decide what happens to me. Those people, they just sent them home without facing the tribunal and some of them are still here. Those are the people that they should bring to the tribunal, why should they bring people like me that never did anything wrong. I don't understand how the process works. How are they going to find out that the people they are sending was the people that was helping the Taliban or al Qaida and the people like me who have never did anything wrong.

Tribunal President: Your opinion is noted for the record.

Tribunal President adjourns the Tribunal.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.

Colonel, United States Army
Tribunal President

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