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DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09356

IN REPLY REFER TO:

JUL 6 2010

MEMORANDUM FOR Commander, Task Force Protector, Bagram Airfield, Afghanistan
Director, Legal Operations, Bagram Airfield, Afghanistan

SUBJECT: 3 June 2010 Detainee Review Board (DRB) Recommendation for Continued Internment Approval for ISN 20262

1. I reviewed the findings and recommendation of the DRB conducted on 3 June 2010 concerning the internment of Detainee ISN 20262. By a vote of 3 to 0, the board members found that internment is necessary to mitigate the threat ISN 20262 poses. After consideration, I approve the DRB's finding and direct that ISN 20262 continue to be detained at the Detention Facility in Parwan.
2. The DRB's recommendation that ISN 20262 not be assessed as an Enduring Security Threat is approved.
3. The point of contact for this memorandum is CAPT ^{(b)(3), 10 USC 130b; (b)(6)}, Director of Legal Operations, JTF 435, at DSN(b)(2)

ROBERT S. HARWARD
Vice Admiral, U.S. Navy

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Bagram-CENTCOM-DRB-448

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REPLY TO
ATTENTION OF:

DEPARTMENT OF DEFENSE
JOINT TASK FORCE 435
APO AE 09354



JTF-435-LO

6 June 2010

MEMORANDUM FOR Deputy Commander, Joint Task Force 435, Kabul Afghanistan, APO
AE 09356

SUBJECT: 3 June 2010 Detainee Review Board (DRB) Recommendation, Continue Internment
of Abdul Qahir s/o Daud Shah, ISN 20262

1. DRB FINDINGS AND RECOMMENDATIONS. The DRB met on 3 June 2010 and made
the following findings and recommendations concerning the internment of Abdul Qahir s/o Daud
Shah, ISN 20262:

a. That Abdul Qahir, ISN 20262, met criteria for initial internment because he was assessed
to be a part of or a substantial supporter of insurgent forces opposing Coalition Forces.

b. That internment is necessary to mitigate the threat posed by Abdul Qahir, ISN 20262.
That Abdul Qahir, ISN 20262, should continue to be interned at the Detention Facility in
Parwan.

c. The DRB recommends approval for the continued internment of Abdul Qahir, ISN 20262.

d. That Abdul Qahir, ISN 20262, should be considered for reintegration programs within the
DFIP.

e. That Abdul Qahir, ISN 20262, is not an Enduring Security Threat.

2. (b)(1); (b)(2); (b)(5)

* The DRB considered the recent abuse allegation. They found enough evidence to find
internment criteria and threat without resorting to any evidence that appeared to be coerced
through abuse. This analysis was in accordance with DoD policy against using torture or
evidence gained as a result of torture.

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3. (b)(1); (b)(2); (b)(5)

4. (b)(1); (b)(2); (b)(5)

5. (b)(1); (b)(2); (b)(5)

6. EXHIBITS SUBMITTED & DETAINEE TESTIMONY AT DRB. In making its findings and recommendations, the DRB considered the following exhibits and detainee testimony:

a. Recorder's Unclassified and Classified Exhibits.

b. Personal Representative's Exhibits. Exhibit A, indicating that Abdul Qahir, ISN 20262, was advised of the basis for internment and the facts supporting internment. Exhibit B, indicating that Abdul Qahir, ISN 20262, met with a personal representative and was advised of his rights at the DRB. Additional exhibit, which was a Sworn Statement of Abuse made by Abdul Qahir, ISN 20262.

c. Detainee Criminal Investigative Detachment (DCID) Report of Investigation (ROI) dated 30 April 2010. (b)(1); (b)(2); (b)(5)

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(b)(1); (b)(2); (b)(5)

d. (b)(1); (b)(2); (b)(5)

e. Detainee's DRB Statement and Responses to Questions: Abdul Qahir, ISN 20262, said "he was just there." He noted that he was not captured with a cell phone or weapon, indicating there is nothing to incriminate him. He said he was afraid of the interrogator. The interrogator pulled his beard. This is why he made a "false confession." Later, he said that he made up the stories because the interrogators indicated that if he made a confession of some sort he would be released ("just tell the truth and you will be released"). He told the DRB that he was outside his village, looking for a person who borrowed money from him. He was just there, and he is innocent.

He said he does not know (b)(6). The only way he knows (b)(6) is from having dinner with him and staying at his house on the date of capture. He denied knowing him before that date.

Abdul Qahir, ISN 20262, lives about four hours driving distance from Marjeh. He was a textile merchant. He loaned 100,000 rupees to a person named (b)(6)

He owns a telephone, but he left it at home.

He declined to make a closing statement at the end of the open session.

7. WITNESS INFORMATION. In making its findings and recommendations, the DRB considered the following witness information:

(b)(6) (live detainee witness). The DRB personnel asked questions about the cell phones recovered at the point of capture. No other topics were presented to the witness, and Abdul Qahir had no questions for the witness.

8. SUMMATION OF DRB FINDINGS AND RECOMMENDATIONS, THREAT ASSESSMENT. In determining whether continued internment is necessary to mitigate the threat posed by Abdul Qahir, ISN 20262, the DRB assessed the detainee's level of threat and weighed, among other things, his potential for rehabilitation, reconciliation, and eventual reintegration into society. In considering this recommendation, (b)(1); (b)(2); (b)(5)

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(b)(1); (b)(2); (b)(5) As a result of all of these considerations, the DRB believes that internment is necessary to mitigate the threat posed by Abdul Qahir, ISN 20262.

9. The point of contact for this review is MAJ ^{(b)(3), 10 USC 130b; (b)(6)} JTF-435 DRB, at DSN (b)(2) (b)(2) or (b)(2); (b)(3), 10 USC 130b; (b)(6).

(b)(3), 10 USC 130b; (b)(6)

2 Encls.

1. DRB Voting Packet
2. Summarized Testimony

COL, QM, USA
President, Detainee Review Board

Date of Board 3 JUN 10	Detainee Name Abdul Qahir s/o Dawud Shah	Detainee ISN 20262
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STEP 1 (FINDINGS): By a preponderance of the information presented, as a member of the Detainee Review Board (DRB), I find that:

The detainee DOES NOT MEET THE CRITERIA for internment and will be released. Stop here and sign at the bottom.

OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a person who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, and persons who harbored those responsible for those attacks; (Continue to Step 2) OR

The detainee listed above MEETS CRITERIA FOR INTERNMENT because he is a person who was part of, or substantially supported, Taliban or al-Qaida forces or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities, in aid of such enemy armed forces. (Continue to Step 2)

STEP 2 (THREAT ASSESSMENT RECOMMENDATION): After taking into account the detainee's potential for rehabilitation, reconciliation, and eventual reintegration into society, by a preponderance of the information, I find that continued internment:

b)(1); (b)(5)

IS NOT NECESSARY to mitigate the threat the detainee poses; (Go to Step 3A)

OR

IS NECESSARY to mitigate the threat the detainee poses (* the detainee will remain at the Detention Facility in Parwan (DFIP) to ensure detention required to mitigate his threat). (Go to Step 3B);

Explain the facts presented at the DRB which led to your recommendation/ (Mandatory regardless of which threat assessment is made):

(b)(1); (b)(2); (b)(5)

(b)(1); (b)(2); (b)(5)

STEP 3A: If your Recommendation in STEP 2 is that continued internment is not necessary to mitigate the threat the Detainee poses, then make one of the following recommendations: In light of the findings listed above, I recommend that the detainee be (PICK ONLY 1):

- Released without conditions; or
- Transferred to Afghan authorities for their consideration of criminal prosecution.
- Transferred to Afghan authorities for participation in a reconciliation or reintegration program.
- (For non-Afghan and non-U.S. third-country national): Transferred to a third country for: criminal prosecution // participation in a reconciliation program // or release. (circle one)

STEP 3B: If your Recommendation in STEP 2 is that continued internment is necessary to mitigate the threat the Detainee poses, make the following further recommendation, and then Go to Step 4.

While the Detainee remains interned at the DFIP, he SHOULD / SHOULD NOT (circle one) be considered for Reintegration programs within the DFIP.

STEP 4: The Detainee IS or IS NOT an Enduring Security Threat (circle one).

(b)(3), 10 USC 130b; (b)(6)

DRB President (Printed) (b)(3), 10 USC 130b; (b)(6)

DRB President (Signature)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(b)(1); (b)(2); (b)(3), 10 USC 130b; (b)(5); (b)(6)

(U//FOUO) [ISN (b)(2)-020262DP, ABDUL QAHIR, entered the boardroom, took seat in front of the board members, and the unclassified hearing was called to order at 1249, 3 June 2010.]

(U) Persons Present:

(U) COLONEL (b)(3), 10 USC 130b; (b)(6), PRESIDENT OF THE BOARD;

(U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER ONE;

(U) MAJOR (b)(3), 10 USC 130b; (b)(6), MEMBER TWO;

(U) CAPTAIN (b)(3), 10 USC 130b; (b)(6), DETAINEE REVIEW BOARD
RECORDER T

(U) LIEUTENANT (b)(3), 10 USC 130b; (b)(6), PERSONAL REPRESENTATIVE
THREE;

(U) MAJOR (b)(3), 10 USC 130b; (b)(6), LEGAL ADVISOR; and

(U) SENIOR AIRMAN (b)(3), 10 USC 130b; (b)(6), PARALEGAL.

(U) The recorder was sworn.

(U) The detainee was advised by the president of how this board was not a criminal trial and how this board was to determine whether or not he met the criteria for further internment.

(U) The president also notified the detainee that he may be present at all open sessions of the Board permitting that he acted appropriately. ISN 020262 was also advised that he could testify under oath or unsworn if he wished to do so, that he had a personal representative which was present at the hearing, that he may present information at the hearing including the testimony of witnesses, and that he can examine documents presented to the Board all of which the detainee understood.

(U) Further, ISN 020262 was instructed that, at the conclusion of the Board, the Board would determine whether he met the criteria for further internment at the Detention Facility in Parwan. The detainee understood the fact that if he does not

meet the criteria, he would be released as soon as possible. However, if he did meet the criteria, he would be recommended for further internment, transferred to Afghan authorities, or released without conditions.

(U) CAPTAIN (b)(3), 10 USC 130b; (b)(6) **presented the following unclassified information**

(U//~~FOUO~~) Abdul Qahir, ISN 20262, (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) (b)(1); (b)(2); (b)(5)

(U//~~FOUO~~) He meets criteria for internment if he was a part of, or substantially supported, Taliban or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act, or has directly supported hostilities in aid of such enemy armed forces.

(U) The detainee, ISN 020262, made the following statement to the Board:

(U//~~FOUO~~) I was just a person who was there and I don't come from that area and there was nothing captured with me and I am innocent.

(U//~~FOUO~~) I said that stuff (b)(1); (b)(2); (b)(5) because they said they were going to release me if I told the truth so I just made up that stuff so I could be released. I was scared of the interrogator because he pulled on my beard. That's why I said that stuff about the Taliban. The interrogator was an American. That's the truth, I went there looking for the person that borrowed money from me and I stayed the night in that house and it was raided and I was captured. I am innocent.

(U) DETAINEE TESTIMONY

(U//~~FOUO~~) ABDUL QAHIR, (b)(2)-020262DP, was called for the board and testified, in subst as follows:

(U) DIRECT EXAMINATION

(U) Detainee Review Board Recorder 3 asked, in substance, the following questions:

(U//~~FOUO~~) My name is ABDUL QAHIR. My father's name is (b)(6). I'm from Nimroz. I was working there, also. I sold material for making cloths. I've been doing it for three years.

(U//~~FOUO~~) I don't know (b)(6). I know (b)(6) because I just went to his house that evening to eat with him.

(U//~~FOUO~~) [Recorder showed detainee exhibit 2] The only people I know are (b)(6) and (b)(6), only because the guards told me their names and the other two people in the pictures I don't know their names. I was with them that night I was captured. It is about 4 hours driving from my work to (b)(6) house.

(U//~~FOUO~~) The person that borrowed money from me is (b)(6) and he borrowed 100,000 PKR from me. I had that much money to loan because we all borrow money from others and then the others borrow money from me.

(U//~~FOUO~~) I took a bus to the village and then walked into the village. I didn't go to (b)(6) house first. First night I looked around for (b)(6) house and couldn't find it and stayed the night in another house that night. Then I looked around the next day and couldn't find it so I stayed at (b)(6) house.

(U//~~FOUO~~) I met (b)(6) while I was praying at the mosque. I asked him if he could help me and if I could stay the night at his house that night.

(U//~~FOUO~~) I don't know (b)(6) or (b)(6). I never worked for the Taliban. I never met with the Taliban. I don't know where they stayed at night.

(U//~~FOUO~~) [Recorder showed detainee exhibit 5] I don't recognize those 2 phones in this picture. I never owned a phone. I never used anyone else's phone. I traveled alone to the village where (b)(6) lived.

CROSS-EXAMINATION

(U) Personal Representative 3 asked, in substance, the following questions:

(U//~~FOUO~~) I stayed at (b)(6) house because I don't know the area and I had nobody else's house to go to that I knew.

(U//~~FOUO~~) I called (b)(6) before I left, but he didn't answer. I left my telephone at my house. I actually do own a telephone. It is a grey Nokia.

(U//~~FOUO~~) I said I was a member of an IED cell because they said they'd release me if I did. (b)(1); (b)(2); (b)(5)
I just made up the location for the IED. I never handled explosives. I didn't see any yellow jugs. I saw no weapons.

(U//~~FOUO~~) I have a son and a wife. My father takes care of my family. My family knows where I am. If I am released I will go back to Nimroz and I have a shop there. I have no formal education. I have taken classes here. I'm taking Pashto. I think Coalition Forces came to help us rebuild our country.

EXAMINATION BY THE BOARD

(U) Member 1 asked, in substance, the following questions:

(U//~~FOUO~~) At my shop I make about 30,000 - 40,000 PK every 2 or 3 months.

(U//~~FOUO~~) I know (b)(6) in Kandahar and he was my friend so I gave him money.

(U//~~FOUO~~) In (b)(1); (b)(2); (b)(5) they just pulled my beard and were upset with me so I was scared.

(U) Member 2 asked, in substance, the following questions:

(U//~~FOUO~~) My head is not working when you ask me about lying. I'm telling the truth.

(U) The President of the Board asked, in substance, the following questions:

(U//~~FOUO~~) I made up the IEDs I pointed out on the map. I know nothing about bombs. [President asked how detainee could tell BSO where IEDs were.] I was praying in the mosque. I was looking for the person who owed me money. A man I didn't know let me stay at his house. I am here because of my Shura.

(U) DETAINEE WITNESS TESTIMONY

(U//~~FOUO~~) (b)(6), was called as a witness for the board, entered the room, and testified, in substance, as follows:

(U) The detainee witness was advised that this was not a criminal trial and that he will be testifying in another detainee's board.

(U) The detainee witness was willing to testify in front of ISN 020262.

(U) DIRECT EXAMINATION

(U) Detainee Review Board Recorder 3 asked, in substance, the following questions:

(U//~~FOUO~~) (b)(6), I am here voluntarily. I've never seen him before. (b)(1); (b)(2); (b)(5) I will talk in front of him.

(U//~~FOUO~~) (Recorder showed detainee exhibit 2) One of them is my father, (b)(6). I don't know the man behind me. He was invited to my house the night of my capture.

(U//~~FOUO~~) (Recorder showed detainee exhibit 5) That is my motorcycle. The first phone was my uncle's and I charged it on my motorcycle and the second one my brother took it and charged it. The black phone is (b)(6). I never saw the blue and silver phone before. I don't know who gave the phone to my brother I never asked him. I've never seen that phone before (b)(6) showed up at my house.

(U) CROSS-EXAMINATION

(U) Personal Representative 3 asked, in substance, the following questions:

(U//~~FOUO~~) I know what all the phones my family uses look like. My father is the only one who owns a phone in the house. He has one.

(U) [The witness withdrew from the boardroom.]

(U) The recorder did offer unclassified exhibits.

(U) The personal representative did offer unclassified exhibits.

(U) The recorder had no further unclassified information to offer the board and, per the recorders request, the president granted a closed hearing at the culmination of the unclassified hearing.

(U) The president announced the conclusion of the unclassified hearing.

(U) The president of the board instructed the detainee that he would be notified of the board's decision within a couple of weeks and that he would be released if the decision is made that further internment would not be required. However, if the board decided that further internment is required, he would be retained at the Detention Facility in Parwan, transferred to Afghan authorities for participation in a reconciliation program, or released transferred to his national country for participation in a reconciliation program. Furthermore, if continued internment was recommended, then an additional Detainee Review Board would be reconvened in 6 months.

(U) The detainee made the following statement:

(U//~~FOUO~~) I don't want to make a statement.

(U) [The unclassified hearing adjourned at 1345, 3 June 2010.]

(U) [The detainee withdrew from the boardroom.]

(U) [The classified hearing was called to order at 1346, 3 June 2010.]

(U) The recorder presented the following information to the board:

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

(b)(1); (b)(2); (b)(5)

(U) The personal representative presented the following information to the board:

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

~~(S//NF)~~ (b)(1); (b)(2); (b)(5)

(U) The recorder did offer classified exhibits.

(U) The personal representative did not offer classified exhibits.

(U) The president and members of the board voted on ISN 20262. The votes were then collected and handed to the legal representative.

(U) [The classified session adjourned at 1401, 3 June 2010.]

[END OF PAGE]