

UNCLASSIFIED//FOR PUBLIC RELEASE

b(2)

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

MAHER EL FALESTENY

Petitioner,

v.

GEORGE W. BUSH, *et al.*,

Respondents.

Civil Action No. 05-2386 (RBW)

b(2)

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MEMORANDUM FOR RECORD

SUBJECT: b(2)b(2) b(1), b(6)
b(1), b(6)
b(1), b(6) b(1), b(5)

1. b(2) SUMMARY: b(2)
b(2) b(1), b(6) b(2)

A. b(2) APPROACH USED: b(1)

B. b(2) EFFECTIVENESS OF APPROACH/LEVEL OF COOPERATION:
b(1), b(5)

C. b(2) RECOMMENDED APPROACH FOR NEXT MEETING: b(1), b(5)
b(1), b(5)

D. b(2) SPECIAL ACTION REQUIRED: b(1)

E. b(2) INTELLIGENCE CONTINGENCY FUNDS: b(1)

F. b(2) LONG TERM COLLECTION PLAN: b(1), b(5)
b(1), b(5)

b(1), b(2), b(5)
b(1), b(2), b(5) b(1)

2. b(2) SUMMARY OF NEW INFORMATION OBTAINED:

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b(2)

- A. b(2) b(1) [REDACTED] b(1), b(2), b(6)
- B. b(2) b(1), b(6) [REDACTED]
- C. b(2) b(1) [REDACTED]
- D. b(2) b(1) [REDACTED]
- E. b(2) b(1), b(6) [REDACTED]
- F. b(2) b(1) [REDACTED]

3. b(2) b(1) COLLECTOR COMMENTS:

- A. b(2) b(1), b(5) [REDACTED]

4. b(2) POC THIS MEMORANDUM IS b(2) [REDACTED] JTF GTMO.

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B. b(2) EFFECTIVENESS OF APPROACH/LEVEL OF COOPERATION: b(1), b(5) b(1), b(5)

C. b(2) RECOMMENDED APPROACH FOR NEXT MEETING: b(1), b(5) b(1), b(5)

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b. b(2) INTELLIGENCE CONTINGENCY FUNDS: b(1)

c. b(2) LONG TERM COLLECTION PLAN: b(1), b(5) b(1), b(5)

i. b(2), b(1), b(2), b(5) b(1), b(2), b(5)

b(1), b(2), b(5)

b(1)

2. b(2) SUMMARY OF NEW INFORMATION OBTAINED:

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- A. b(2)b(1) [redacted] Maher (ISN 519)^{b(1)}
 b(1) [redacted] Maher^{b(1)}
 b(1) [redacted]
 b(1) [redacted] Maher^{b(1)}
 b(1) [redacted] b(1) [redacted] Maher,
 b(1) [redacted]
 b(1) [redacted] Maher^{b(1)}
 b(1) [redacted] Maher^{b(1)}
 b(1) [redacted] Maher^{b(1)}
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 b(1), b(5) [redacted]
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 b(1) [redacted] Maher (ISN
 519)^{b(1)} [redacted] Maher^{b(1)}
 D. b(2) b(1), b(6)
 b(1), b(6) [redacted]
 E. b(2)b(1), b(2), b(6)
 b(1), b(2), b(6) [redacted]

3. b(2) b(1) COLLECTOR COMMENTS:

- A. b(2) b(1) [redacted] Maher^{b(1)}
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 b(1) [redacted]
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 b(1), b(2) [redacted]

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D. b(2) b(1), b(5)

b(1), b(5), b(6)

b(1), b(5), b(6)

A. b(2) POC THIS MEMORANDUM IS b(2), b(3)

b(2), b(3) JTF GITMO b(2), b(3)

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DOD/CITF Memorandum (May 14, 2004)



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Declassified By: DE 6 July 2009

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DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE
STREET
FORT BELVOIR, VIRGINIA 22060

REPLY TO
ATTENTION OF

CITF-CDR

14 May 2004

MEMORANDUM THRU

For [redacted] 14 MAY 04
Commanding General, USACIDC, Fort Belvoir, Virginia 22060
Army General Counsel, Headquarters, Department of the Army, Pentagon 20301-0104

FOR General Counsel, Department of Defense, Pentagon 20301-1600

SUBJECT: [redacted] Assessment UP Implementation Guidance for Release or Transfer
of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government
Control/Detainee [redacted] ISN#: [redacted]

1. [redacted] Recommendation: Based on the information available at this time, it appears unlikely that [redacted] will be determined to be an individual subject to the President's Military Order of 13 November 2001. I recommend the continued detention of Al Haj in the custody of the Department of Defense pending further investigation.

2. [redacted] Factual Synopsis: Unless otherwise noted, this synopsis is based on [redacted] uncorroborated statements to interrogators. [redacted] is a 29 year-old single Yemeni. [redacted] completed high school in Yemen and served one year of mandatory service in the Yemeni army as a regular soldier. [redacted] studied religious science and the Koran for about three years at an unidentified college in Yemen. [redacted] has been employed at a [redacted]

[redacted] a known jihadist recruiter in Yemen, recruited [redacted] in Yemen to participate in the jihad. [redacted] advised [redacted] that the Taliban would take care of him and find him a good wife. [redacted] purportedly collected money in his local business district to pay for his trip to Afghanistan. [redacted] took a traditional route to Kandahar, Afghanistan, via Pakistan. [redacted] worked on the front lines near Bagram, Afghanistan, for about one month. He subsequently worked [redacted] in Kabul, Afghanistan, for about six months. [redacted] attempted to flee Afghanistan after the U.S. attacks began. He traveled thru Jalalabad, Afghanistan, and was detained by [redacted] in [redacted] 2001. [redacted] was turned over to U.S. forces in [redacted] 2002, and transferred to GTMO in [redacted]

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[REDACTED]

CITF-CDR
SUBJECT: [REDACTED] Assessment UP Implementation Guidance for Release or Transfer of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government Control/Detainee [REDACTED] ISN#: [REDACTED]

[REDACTED] was initially identified as [REDACTED]. Subsequent investigation has established that [REDACTED]. It appears that [REDACTED] was a foot soldier that went to fight the jihad against the Northern Alliance. That being said, [REDACTED] name is possibly associated with [REDACTED].

[REDACTED] (ISN#: [REDACTED]) also states [REDACTED] went home to Yemen every 5 or 6 months, that [REDACTED] and [REDACTED] has delivered about 3,000 USD to an unknown emir at [REDACTED] s credibility is in question with interrogators.

There is no indication that [REDACTED] went to Afghanistan to fight American forces. There is limited evidence available to establish that that [REDACTED] was associated with terrorist groups. There is also limited evidence that [REDACTED] took part in any acts of terrorism against U.S. persons or interests, nor is there reporting on his involvement with supporting, aiding, abetting, or funding terrorist operations.

With intelligence and evidence collected so far it seems highly unlikely that [REDACTED] s high or mid level Al Qaeda or Taliban.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

CITF-CDR
SUBJECT: [REDACTED] Assessment UP Implementation Guidance for Release or Transfer of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government Control/Detainee [REDACTED] ISN#: [REDACTED]

[REDACTED]

[REDACTED]

CITF interviews: 13 Jun 02, 22 Jun 02, 24 Jun 02, 26 Jun 02, 13 Jun 03, 21 Feb 04 (detainee is not cooperative with interrogators)

KB: 17 Jun 02

Polygraph: None offered.

JTF-GTMO release recommendations: None offered.

3. [REDACTED] Threat Assessment: The CITF has assessed [REDACTED] as a high-risk. The JTF-GTMO has not yet provided a completed risk assessment recommendation on [REDACTED]

4. [REDACTED] Status of CITF Review Process:

a. The following table is a summary of the agency checks included in CITF's review process:

Agency Check	Date Requested	Date Completed	Hits * (Number)
[REDACTED]	26 Jul 03	Pending	
[REDACTED]	26 Jul 03	Pending	
[REDACTED]	26 Jul 03	Pending	
[REDACTED]	26 Jul 03	Pending	

*Significant information, if any, from relevant reports is included in Factual Synopsis above.

b. The table below depicts the intelligence community databases that were reviewed by CITF analysts:

[REDACTED]

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[REDACTED]

CITF-CDR
SUBJECT: [REDACTED] Assessment UP Implementation Guidance for Release or Transfer
of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government
Control/Detainee [REDACTED] ISN#: [REDACTED]

Database	Date Review Completed
[REDACTED]	

*Significant information, if any, from relevant reports is included in Factual Synopsis above.

5. [REDACTED] The CITF believes that further investigation may produce new information relevant to this case. Agency checks remain outstanding. In the absence of further information, I recommend the continued detention of [REDACTED] in the custody of the Department of Defense pending further investigation, to include a clearer interpretation and better assessment, [REDACTED] of reports potentially associating [REDACTED] with Al Qaida. In addition, the allegations made by [REDACTED] that are currently being investigated by CITF must be resolved.

[REDACTED]

COL, MP
Commanding

[REDACTED]

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CURRENT AS OF DATE: b(2)
ISN: b(2) b(2)
GTMO ID: b(2)
MP ID:
REFERENCE NAME: b(6)
CURRENT NAME:
LANGUAGES: b(2)
CITIZENSHIP: b(2) b(6)
ETHNICITY: b(2)
POB/DOB: b(2) b(6)
CURRENT CELL: b(6)
ANALYST: b(2)
INTERROGATOR: b(3)
LAST INTERVIEW: b(2)
ADMINISTERED
POLYGRAPH:
POLYGRAPH DATE:

b(1)

Aliases

b(2) b(6)

[Redacted]

b(2)

[Redacted]

b(1), b(6)

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b(1), b(5)

DETAINEE SUMMARY

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b(1), b(6) b(1)

THREAT ASSESSMENT

b(1)

RECOMMENDATION FOR RELEASE

Recommendation: b(1)
Recommended Release Date: b(1)

ANALYST and INTERROGATOR INTELLIGENCE FOCUS

b(1)

NON-CORROBORATED DETAINEE TIMELINE

b(2)
b(2)

[REDACTED]

IN THE UNITED STATES DISTRICT
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[REDACTED] CSRT testimony (Oct. 12, 2004)

[REDACTED]

[REDACTED]

Summarized Sworn Detainee Statement

When asked by the Tribunal President if the detainee understood the CSRT process, the Detainee answered, "Yes."

When asked by the Tribunal President if the detainee had any questions concerning the Tribunal process, the Detainee answered, "Yes."

Detainee: I was told I had the right or the opportunity to have a witness. There is a witness here in the detention facility that I want to present.

Tribunal President: I will address your witness request later in the process.

Detainee: When the documents were given to me explaining this Tribunal, I did not understand the classified information. If there is a secret witness that testified against me and secret information how can I defend myself if I don't know what this information is?

Tribunal President: First about what is classified. I will read you our definition. This might help you. Classified information, what you called secret information, is information that the owning government agency has decided could cause damage to our National Security if released. This Tribunal does not have the authority to change that decision. I will add to that to answer your second question about how you can defend yourself.

Detainee: How can I against a witness that testified against me?

Tribunal President: I will explain that. We can have the information as a Tribunal, which we will hear later. We have not seen it. If you remember our oath, we will promise to do our best to judge it in this case. Your Personal Representative has also reviewed it and will point anything out to us that we need to consider in our decision. We cannot provide this information to you because of its classification. Does that help explain?

Detainee: I understand.

[After the Recorder requested a closed session to present classified information the detainee wanted to ask a question.]

Detainee: What he read, the unclassified, and what the Personal Representative read to me, there are differences.

Tribunal President: Yes there are differences, I understand, shortly you will be given a chance to address them.

[The above exchange is addressed on page 5 of this document.]

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[REDACTED]

Tribunal President: I notice from your election form that you requested a witness who was with you when you were fleeing Jalalabad into Tora Bora and was also with you when you were captured. Is that correct?

Detainee: Yes.

Tribunal President: You also believe that the witness would testify that you did not distribute weapons and did not fight in Kandahar.

Detainee: The witness was going to testify that I was not in Tora Bora and that I had no kind of weapon to distribute and that I was not fighting. There were no weapons in the area that I was staying in. This is important to me. Because I didn't know how to use a weapon, I did not carry a weapon, and this person was with me in Tora Bora.

Tribunal President: I have determined that the witness is not available to attend any of your open sessions. I have directed the Personal Representative to investigate available other information to present to this Tribunal in an appropriate session. That is my ruling on the availability of your witness at this session. The information may be available in another part of this hearing.

Detainee: To me it is not important that this witness is not here now, but it is important that you hear what this witness has to say.

Tribunal President: Do you wish to make a statement to this Tribunal?

Detainee: Yes.

Tribunal President: Would you like to make your statement under oath?

Detainee: Yes.

[The detainee was sworn using the Muslim oath.]

Tribunal President: You may now proceed.

Personal Representative: Do you wish to address each of the points as we did in our interview?

Detainee: Yes

Personal Representative: 3.a.1. (The detainee left Mashad, Iran and headed to Afghanistan seven to eight days before the 11 September 2001 terrorist attacks in the United States.)

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Detainee: I went to Mashad, which is in Iran. I went from Mashad to Afghanistan seven to eight days before the incident. I am not a resident of Mashad. I went there ten days before I went to Afghanistan. The reason I went to Mashad was because I was going to Quetta city in Pakistan. There is a U.N. office in Quetta. I am Palestinian and I have a wife and two children and we don't have any official identification. I wanted to go to the U.N. to solve that problem. My children are growing up and they will soon need identification and official papers for school. I went to the U.N. to get the paperwork but the U.N. takes a lot of time before you can get an appointment. The time period was a problem for me for two reasons. Because my family has no identification or paperwork and I would have stayed in Iran or Pakistan any longer we would have had a problem with the government. For that reason I decided to stay in a place where there was not a problem if you did not have identification. That is why I chose to go to Afghanistan. I chose Jalalabad because I heard it was the quietest city with few problems. The second reason was to get a job so I could support my family. I looked for a job and a house. At that time the problems began happening and I was forced to go to Tora Bora.

Personal Representative: 3.a.2. (While in the Al-Farouq training camp in Afghanistan, the detainee was in charge of delivering food to caves.)

Detainee: I asked one of the detainees here that was at the Al-Farouq training camp to describe the camp to me. He said the camp did not have any caves. As far as food, the people gather in one place to eat. The people who give the food are cooks. The cooks are Afghani citizens. I asked the detainee who gave me the information about the camp to be a witness, but he told me no. He will not talk to anybody and did not attend his Tribunal.

About the accusation that says I trained in the camp. I also asked the detainee about this and he said during the incident of 9/11 there was nobody at the camp training. It would be impossible for me to get training in seven or eight days.

Personal Representative: 3.a.3. (When Jalalabad was overrun by the Northern Alliance, the detainee fled into the Tora Bora mountain region.)

Detainee: Like I said before I was in Jalalabad. I had a job and when the coalition forces entered Jalalabad I was not fired and had no problems with the coalition forces. So why would I run away. The problem happened when the coalition forces accused the Arabs of killing Massoud. He was their top leader. They were looking for any Arabs. People said they were killing Arabs. For that reason I was afraid and ran away. If you look at a map, the coalition forces were coming from this direction so of course I am going to run the other way. And the way I ran was toward the Tora Bora Mountains. I was forced I had to go that way.

Personal Representative: I would like to go back to the second point. 3.a.2. (While in the Al-Farouq training camp in Afghanistan, the detainee was in charge of delivering

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[REDACTED]

food to caves.) You stated to me in our interview prior to coming here you had never heard of or knew of Al-Farouq, and that you never entered or went to Al-Farouq.

Detainee: Yes.

Personal Representative: 3.a.4. (The detainee admits that he was at the Tora Bora camp and was responsible for distributing supplies from the central supply point.)

Detainee: I would like to ask a question to clarify something. Can someone explain to me responsible? What do you mean by being responsible?

Tribunal President: All I have is what you have. I read this as you admitted to being responsible for distributing supplies. In charge of moving the supplies out. We don't know what the supplies are. It could be anything.

Detainee: Responsible means two things to me. To me it means that I take this product and then I go to a place and give it to them and then go to another place and give them the same product. Or it could be that I was responsible for the paperwork.

If I was responsible for distributing a product from one place to another then I am not responsible for the product. I didn't know this area so this was not my job. The place I was at had six Afghans that were responsible for distributing the food. So I wasn't responsible for distributing.

I was not responsible for the paperwork. A person by the name of Abdul Kadus was responsible for the paperwork. The paperwork came from a man for moving the product from one place to another. My only responsibility was to look at the paper and tell the Afghan to get only what was on the paper. When I went to the mountain I met with Abdul Kadus and he was responsible for the mountain. He asked me if I knew how to use a weapon. I told him I didn't know how to use any weapon. For that reason he sent me to where the food was at. The next day he told me I could stay there until they got me someone who could help me to the border of Afghanistan. There was no kind of weapons there.

Personal Representative: 3.a.5. (The detainee was trying to get to Pakistan and was captured by Northern Alliance forces as he fled Tora Bora, through Wazir village and on the way to Jalalabad.)

Detainee: Kadus came and told me this Afghani will take you to the Pakistan border. The Afghani took me to a village called Wazir at night. We went to a house in the village where the Afghani spoke with the person from the house. I couldn't understand what they were saying. I stayed at the house with the family for about a week to ten days. One night an Afghani came to the house and told me he would take me to Jalalabad. He said he would take me there until they could get me to Pakistan. He had a pickup with two boxes. The person sitting next to the driver had a weapon. There were also six or seven

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[REDACTED]

Afghans in the back that had weapons. We were supposed to go secretly and I did not understand what they were doing and I couldn't do anything. When you first get to Jalalabad there is a security checkpoint. They stopped the vehicle and the driver and the passengers got out. Three people from the checkpoint came over to us said we were Arab and told us to come with them. They took us and the others got back in the vehicle and left. They took us to a prison. The next day the commander of the checkpoint told me they would get paid \$5000.00 for me. He said if I could pay him more than that he would release me. I didn't have any money. The next day vehicles came and they took me from Jalalabad to a Kabul prison. The commander of the prison told me they got paid \$10,000.00 for me. One month later I was given to the Americans in Bagram.

Personal Representative: Who was with you during the capture and on the mountain?

Detainee: Fouad Al-rabia he came down from the mountain with me. It was him, some Afghans and I. The same amount of money that was offered for me was also offered for him. We were given to the Americans in Bagram and I haven't seen him since.

Personal Representative: 3.b.1. (The detainee trained in hand weapons at Al-Farouq and later fought at Kandahar.)

Detainee: That is the difference from what I was read and what he (the Recorder) read before. What he read there says military action against the coalition forces or the United States. And it says I fought in Kandahar. To me this is very important because the word fight has no limit. The accusation against me is that I fought against the coalition forces in Kandahar?

Tribunal President: That's the allegation.

[Note: The Tribunal recognizes that the recorder's summary of the unclassified evidence may have confused the detainee in the hearing, specifically the reference to paragraph 3.b in general as compared to the specific subparagraphs under 3.b. The detainee recognized the difference as indicated in the transcript above and responds to the specific accusation of paragraph 3.b.1 from exhibit R-1. After the hearing, the Personal Representative confirmed that he did not specifically address paragraph 3.b with the detainee but concentrated the detainee's attention to the specific accusations of the subparagraphs under 3.b. The Personal Representative stated that the entire Unclassified Summary was read to the detainee in the initial interview and that the detainee understood the allegations.]

Detainee: As far as the Al-Farouq training camp. I mentioned before I came to Afghanistan seven or eight days prior to the incident in the United States. From the information I got from the detainee about the camp in Kandahar. I asked the detainee to describe Kandahar. From what you have told me I trained for seven or eight days on weapons. Let's say the detainee was not telling the truth. The Americans start attacking Afghanistan about a month later. After the attack there was one at the training camp

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[REDACTED]

because I am sure the Americans knew where it was. It would be attacked no one would be there. For that reason I would have about a month and seven days. Is this enough time for me to get trained and then distribute weapons?

There is something I would like to note in the accusations. They keep saying that I am responsible, responsible, and responsible. Is it possible for a person to be responsible after being in Afghanistan for only eight days?

About fighting in Kandahar. From the time I left Mashad to Jalalabad. I came from Mashad to Herat, to Kandahar, to Kabul, and then to Jalalabad. This is the way I traveled. So when I see Kandahar and Kabul and Jalalabad. Kabul is between Kandahar and Jalalabad. You know the first city to fall was Kabul, then Jalalabad, and then Kandahar. If I was at the attack in Jalalabad when the coalition forces entered I was in the Tora Bora Mountains. So when Jalalabad fell Kandahar had not. So when was it that I was fighting? Let's say that I was in Kandahar fighting the American forces. I was in Kandahar, it was the last city to fall. Then I was arrested in Kandahar because it was the last city to fall. But I was arrested at the beginning in Jalalabad.

Personal Representative: 3.b.2. (The detainee was at Tora Bora and had responsibility for distributing food and weapons supplies to Taliban and Al-Qaida soldiers throughout the Tora Bora area, and he often met with and talked on the radio with Usama Bin Laden.)

Detainee: There were no weapons in Tora Bora. In the investigation I was never accused of distributing weapons. They showed me a picture of a detainee here and told me he was responsible for distributing weapons in Tora Bora. They asked if I knew him and saw him on the mountain. There were no weapons and I didn't see this person. So why now am I being accused of distributing weapons? You can ask the witness I requested about the weapons. There was food only. I did not carry weapons.

Imagine the mountains being attacked twenty-four hours a day. Under these conditions I would be meeting with Usama Bin Laden whenever I want? And I was calling Usama Bin Laden. You are military, you know what I am saying. If we used the radio, wouldn't the American forces know exactly where we were at. And they would hear his voice. Why did they come to the Tora Bora Mountains to hear me talk to Usama Bin Laden? There is no reason for me to call Usama Bin Laden. Usama Bin Laden is not stupid. You are in Afghanistan and you have not seen Usama Bin Laden. This proves that he is smart. He wouldn't be stupid and take a call from me. He is not stupid enough to have some one that has been in Afghanistan for only a few days at a level of that importance. If I had met him I would have used the way he did to escape. The accusations say I am a close friend of Bin Laden so why wouldn't I take the same way through Tora Bora. Why am I here handcuffed and Bin Laden is not.

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

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Summarized Answers in Response to Questions by the Personal Representative

Q. The evidence says that you were in charge of delivering food, responsible for supplies and that you talked with Usama Bin Laden many times on the radio. I want this to be clear. The point you were trying to make to the Tribunal was how could you be so important in so many places and be in the position to be friends with Usama Bin Laden, if only in Afghanistan for approximately one month.

A. It's impossible.

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

Personal Representative: No sir.

Tribunal President: Do the Tribunal Members have any questions for the detainee?

Summarized Answers in Response to Questions by the Tribunal Members

Q. Where was your family during your travels to Iran and then into Afghanistan?

A. They were in Iran.

Q. So they stay in Iran while you went to get the papers?

A. They were in Iran and I was to go to Afghanistan and find a good place to live, a good job, and then I would bring them over.

Q. You were not able to bring your family to Afghanistan yet?

A. Because of the pressure of not having a place to live or hard times, my family could not survive there alone.

Q. Had you ever been in Afghanistan before this trip?

A. No.

Q. Were you ever in the Al-Farouq camp?

A. No.

Q. You stayed in Jalalabad for a number of weeks, did you find a job there?

A. Yes.

Q. What was that job?

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- [REDACTED]
- A. I met a person there and this person worked in sheep trading. He had an Afghani partner with him. I became the third partner. That was my job.
- Q. When you described your time in Jalalabad you said that people there accused the Arabs of killing an important person. Who was accusing? Were they coalition forces or Jalalabad leaders, Taliban, who?
- A. The Northern Alliance, which are the forces of Massoud, they were the ones that said it. When I was in the Kabul prison they tortured us for the month we were there.
- Q. You provided statements regarding your work in the Tora Bora Mountains. And if you would just confirm for me that you were in the Tora Bora Mountains and if you can explain a village or a place in the mountains. It is a very large area.
- A. Tora Bora is a mountain area. It is a group of mountains. When I went from Jalalabad to the mountains I met the person named Kadus, it was at night. From what I understand from walking the area was on a slope of the mountain. We walked for a long time. There were caves and we stayed in the caves.

Tribunal President: Do you have any other evidence you wish to present to this Tribunal?

Detainee: No.

AUTHENTICATION

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

[REDACTED]

Tribunal President

[REDACTED]

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IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

MAHER EL FALESTENY)


Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-2386 (RBW)

 ARB Testimony (Sept. 7, 2006)





Summary of Administrative Review Board Proceedings for ISN 519

The Administrative Review Board was called to order.

The Detainee entered the proceedings.

The Presiding Officer announced the convening authority and purpose of the Administrative Review Board proceedings.

The Designated Military Officer (DMO) was sworn.

The Board Reporter, Translator, Assisting Military Officer (AMO) and Board Members were sworn.

The Presiding Officer asked the Detainee if he wishes to make a statement under oath. (Muslim oath offered).

The Detainee accepted taking the Muslim oath.

The Presiding Officer read the hearing instructions to the Detainee and confirmed that he understood.

The Assisting Military Officer presented the Notification of the Decision of the Administrative Review Board, Exhibit EC-A, to the Administrative Review Board.

The Assisting Military Officer presented the Enemy Combatant Election Form, Exhibit EC-B, to the Administrative Review Board.

The Assisting Military Officer read the AMO Comments from the Enemy Combatant Election Form, Exhibit EC-B.

Assisting Military Officer: The detainee's ARB interview was conducted on 05 September 2006. After reviewing the ARB's purpose and procedures, the Arabic translated Unclassified Summary of Evidence was read to the detainee. When asked if he wanted to attend the ARB, present a written or oral statement, or have the AMO speak on his behalf, the detainee stated he would attend the ARB and requested to have the AMO present a written statement on his behalf. The detainee was very cooperative, polite and cordial during the entire interview. Copies of the Arabic translated Unclassified Summary of Evidence, as well as detainee writing templates, were provided to the detainee upon his request. The detainee's follow-up interview was conducted on 06 September 2006. The detainee responded to the Unclassified Summary by giving the AMO a description of the events that occurred prior to his detention by U.S. forces. The detainee also presented the AMO with a written statement for presentation to the ARB. The responses and written statement were translated by the linguist and are presented

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[REDACTED]

here within. The detainee was extremely cooperative, attentive and cordial throughout the follow-up interview.

The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1, the FBI Redaction Memorandum, DMO-2, the CITF Redaction Memorandum, DMO-3, and the Terrorist Organization Reference Guide, DMO-4, to the Administrative Review Board.

The Designated Military Officer stated that a copy of these exhibits had been previously distributed to the Assisting Military Officer and Detainee.

The Presiding Officer noted from the Enemy Combatant Election Form that the detainee wanted to wait until the entire Unclassified Summary was presented before responding.

The Designated Military Officer gave a brief description of the contents of the Unclassified Summary of Evidence, Exhibit DMO-1, to the Administrative Review Board.

Designated Military Officer: (3) The following factors favor continued detention: (3.a) Commitment (3.a.1) The detainee had a job with the Kuwaiti Joint Relief Committee distributing food and clothing.

Designated Military Officer: (3.a.2) The detainee was at al Farouq Training Camp. The detainee was in charge of delivering food to the caves.

Designated Military Officer: (3.a.3) The leader in a camp in Tora Bora, Afghanistan assigned the detainee to work as a supply distributor.

Designated Military Officer: (3.a.4) The detainee was the supply person in charge of bookkeeping and distributing food and weapons in Tora Bora. The detainee carried a hand held radio and often met with Usama bin Laden.

Designated Military Officer: (3.b) Training. (3.b.1) The detainee was identified as someone who trained in hand weapons at al Farouq and later fought in Kandahar, Afghanistan.

Designated Military Officer: (3.b.2) Training was conducted on numerous weapons at al Farouq. The students received training on the Kalashnikov rifle, AKM and PK machine gun. They also familiarized themselves with the rocket-propelled grenade.

Designated Military Officer: (3.c) Connections/Associations. (3.c.1) The detainee became acquainted with the leader of a humanitarian organization in Herat, Afghanistan.

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[REDACTED]

[REDACTED]

Designated Military Officer: (3.c.2) The leader of the humanitarian organization was a major operator for the al Wafa Non Governmental Organization who likely transferred large sums of money through a front company called Summit Health Club in Afghanistan.

Designated Military Officer: (3.c.3) The detainee was in Tora Bora handing out supplies to the Mujahedin fighting there. The detainee was working for al Wafa at the time.

Designated Military Officer: (3.c.4) The detainee was seen in the Towr Khom Mountains at the same time as Usama bin Laden.

Designated Military Officer: (3.d) Detainee Actions and Statements. The detainee stated he would go into Afghanistan and collect a list of items to bring.

Designated Military Officer: (3.e) Other Relevant Data. During evacuation from Tora Bora to Pakistan, the detainee and the leader of the humanitarian organization were captured by the Northern Alliance.

Designated Military Officer: (4) The following primary factors favor release or transfer.
(4.a) The detainee continued to deny that he was ever in Tora Bora, Afghanistan.

Designated Military Officer: (4.b) The detainee claims to have no prior knowledge of past or present terrorist activity.

The Designated Military Officer confirmed that she had no further unclassified information and requested a closed session to present classified information relevant to the disposition of the Detainee.

The Presiding Officer acknowledged the request.

The Presiding Officer opened the Administrative Review Board to the Detainee to present information with the assistance of the Assisting Military Officer.

Assisting Military Officer (for the Detainee): The detainee provided the following oral statement in response to the information in the Unclassified Summary of Evidence. The detainee stated that he wanted to explain 1) what he was doing in Afghanistan, 2) why he originally went there, 3) why he was in Tora Bora, and 4) to explain the events leading up to his capture.

Detainee (through translator): I would like to clarify that I was not captured. I was sold. I would like to change the statement, "To explain the events leading to his capture." I was not captured. I was sold to the Northern Alliance. I would like to clarify that capture means that I had done something wrong. I was not captured, but sold to the Northern Alliance. There is a big difference.

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[REDACTED]



Presiding Officer: The Board takes note of this and it will be entered into the record:

Assisting Military Officer (for the Detainee): (1) The detainee said that in Afghanistan, he worked with two people, a Chadi named Adam Ali Bakir and an Afghan named Noir Mohamed. The three of them had a business and the project was the buying and selling of sheep. The detainee stated that his job and responsibility in this business was the feeding and raising of the animals. The Chadi, Adam Ali Bakir, had a car and was responsible for buying small and young sheep from the countryside. The Afghani, Noir Mohamed, was the one who sold the sheep once they were adults. The detainee stated that he worked in the business for approximately a month and that the sheep business was his only job in Afghanistan.

Board Member: Where in Afghanistan did you have this job?

Detainee (through translator): In Jalalabad.

Board Member: What brought you to Jalalabad?

Detainee (through translator): This point will be cleared in the next paragraph.

Board Member: Thank you.

Presiding Officer: Your job was to feed and care for the animals. How long did you work at that?

Detainee (through translator): Approximately one month. We lost everything after the Northern Alliance entered Jalalabad.

Presiding Officer: What did you feed the sheep?

Detainee (through translator): The sheep were in a farm. I fed them every day. I cleaned them. I took care of them and took them to the Vet when they were sick.

Presiding Officer: What did you feed them?

Detainee (through translator): During spring they ate clover and during winter they ate hay. We added certain ingredients to the hay such as beans and salt so that the sheep would be able to eat the hay and drink water.

Board Member: Were Adam and Noir the ones responsible for selling you to the Northern Alliance?

Detainee (through translator): Not at all. This had nothing to do with these two people. This happened later on.

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Board Member: Thank you.

Board Member: When did you start this job? You said it lasted about a month.

Detainee (through translator): I cannot tell you the exact date. I was in Afghanistan for about 10 days before I got involved with these two people. The only time frame I remember is that when I first came to Afghanistan in Herat, it was the falling of Herat. The airport was attacked. That is the only time frame I remember. It took me two days to travel to Jalalabad and about 10 days to find this job. I began this job exactly 12 days after the attack of the airport in Herat. This should be easy for you to find out the date.

Board Member: Thank you.

Assisting Military Officer (for the Detainee): (2) The detainee stated that the reason for originally going to Afghanistan was that he was a Palestinian refugee and wanted to find a place for his family. He wanted to contact a UN office in Pakistan in order to obtain identification papers but had trouble because Pakistan does not allow people to remain in the country without legal papers. The detainee said he then went to Afghanistan and left his family in Iran until he could find a job for himself and a home for his family. He went to Afghanistan because he was told that the country was more lenient for people without identification papers. The detainee stated that he arrived in Herat, Afghanistan, the day the war started and the attacks began on the Herat Airport. The detainee said he left Herat and spent about two days travel before arriving in Jalalabad. This was where he worked and spent about a month there after the first attack. He remained there until the Northern Alliance took over the city.

Board Member: Why did you flee from the Northern Alliance since you mentioned that you were a Palestinian refugee?

Detainee (through translator): There was no mention of me fleeing from the Northern Alliance in this paragraph. Perhaps you should clarify your question.

Board Member: Why did you flee from Herat, Afghanistan?

Detainee (through translator): I did not escape from Herat. I went from Iran to Afghanistan through Herat. I had to go through Herat because it is on the border of Afghanistan and Iran. When I went to Afghanistan through Herat, I did not intend to stay in Herat. My destination was Jalalabad. It was a coincidence that Herat was attacked the day I arrived there.

Board Member: Thank you.

Presiding Officer: Why did you want to go to Jalalabad?

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Detainee (through translator): I had never been to Afghanistan. I did not know Afghanistan very well. When I was in Iran, I asked around and found out that Jalalabad was the safest place to work in Afghanistan. I learned in Iran that Jalalabad was in the countryside and that it was a very safe and affordable area with good living conditions. Also Jalalabad is close to the Pakistani border and since I wanted to apply for legal papers in Yemen, Pakistan, I decided that it would be easier for me to go to Pakistan to check on my papers. Those were my two reasons for choosing Jalalabad.

Presiding Officer: Thank you.

Board Member: This is going to sound very similar to the previous question. In your statement you said you remained in Jalalabad until the Northern Alliance took over the city, why did you leave when the Northern Alliance took over the city if you were a Palestinian refugee?

Detainee (through translator): This will be covered in the next paragraph.

Board Member: Thank you.

Assisting Military Officer (for the Detainee): (3) The detainee stated the reason he was in Tora Bora was because he was part of a mass exodus out of Jalalabad to avoid the Northern Alliance. The detainee said that he had finished afternoon prayer when a friend came to get him saying they had to leave. He had no idea why they were leaving or where they were going. The detainee stated that he saw that there were other people leaving in the same direction and some of them were running. It was only afterwards that he found out they were leaving because the Northern Alliance was moving in on the city. The detainee said that the Northern Alliance was capturing and killing all Arabs in response to the mujahedin assassination of a Northern Alliance senior officer.

Detainee (through translator): I believe that the other Arabs and I were fleeing from the Northern Alliance.

Assisting Military Officer (for the Detainee): (3) That is why it was only Arabs that were leaving and not Afghans. The detainee said that the reason he wound up in Tora Bora was that Jalalabad is in a mountainous region and the only safe route out of the city and away from the Northern Alliance was towards Tora Bora. The detainee said that he was only moving with the flow of people out of the city and into the mountains. He stated that when they arrived it was nighttime and that was when a person named Abdul Akadus met them. The detainee said that Abdul Akadus greeted everyone who arrived on the mountain. The detainee was also asked if he could use or had any weapons training. The detainee said that after this he was separated from his friends and was taken to another cave where he was able to get some sleep. The detainee said that in the morning he was taken to another cave where he was able to get something to eat and was also told that it

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[REDACTED]

would be some time before someone would be able to come and escort him to the border to go to Pakistan.

Detainee (through translator): I would like to clarify something.

Presiding Officer: Please go ahead.

Detainee (through translator): In the mosque, my friend came to me asking me to follow him. I got in his car and the only route to escape was the one leading to Tora Bora because the Northern Alliance was coming from the opposite direction. We could not go left or right because mountains surrounded the area. Escaping on vehicle is much faster than escaping by foot. The routes end at the mountain. Many people took the same route. There were women, children, and men. We left the car at the bottom of the mountain where the route ended. I want it to be clear that I did not know that I was going to Tora Bora. We took the route leading outside Jalalabad. I did not know that mountain was called Tora Bora until the interrogators told me when I arrived here. I did not know of the importance and the danger of that mountain until I got here. My perspective of Tora Bora differed completely from the American perspective of Tora Bora. I learned during the interrogations after I was captured, Tora Bora was a very dangerous place where Usama bin Laden resided and that there were a lot of mujahedin there. This is the point I wanted to clarify.

Assisting Military Officer (for the Detainee): (3) The detainee said that while he was there Abdul Akadus asked the detainee to record inventory of supplies as they came and went since the detainee was the only other Arabic individual who could write. The detainee said that he accepted as a courtesy because of the hospitality that was offered to him and also because he was promised help in getting out of the country. The detainee stated that he was not in charge of any food deliveries because he was not familiar with the area and he was not able to secure or pack or tie down equipment on the mules because it was done in a very traditional Afghani way. All food deliveries were handled by six Afghans who were also present at caves. The detainee said that there were no Arabs who made any food deliveries, only Afghans, and no weapons were stored at the warehouse. The detainee said that if the interrogators here would ask other detainees they would also confirm this statement.

Detainee (through translator): I would like to clarify the word supplies. I want it to be food supplies instead of just supplies in general.

Presiding Officer: It is noted.

Board Member: Have you had any weapons training?

Detainee (through translator): I would like to clarify this point. When I climbed the mountain, I met this man named Abdul Akadus. He asked me whether I had any type of

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[REDACTED]

[REDACTED]

training in weapons. I told him that I never received any type of weapons training in my life. That was why he chose this particular place for me to stay away from danger. Logically speaking as you know, food warehouses must be away from any type of danger area. He asked me to go with an Afghan to a cave because it was very safe.

Board Member: That was what you told Abdul, but I am asking you as a Board member. Have you received weapons training?

Detainee (through translator): Not at all.

Board Member: Thank you.

Board Member: What was your friend's name who asked you to follow him in his car?

Detainee (through translator): Adam Ali Bakir. He came to me at the mosque because he knew that I was there.

Board Member: What happened to Ali as you all were climbing up the mountain?

Detainee (through translator): Once we climbed the mountain I met with the man named Abdul Akadus who then asked me to follow the Afghan. Abdul Akadus went to a different place and I did not see him after that.

Board Member: Was Ali part of al Qaida, the Taliban, or some other terrorist organization?

Detainee (through translator): I met him after I arrived in Afghanistan. There was not a close enough relationship between us for him to divulge this type of information to me. In fact our conversations were always about sheep.

Board Member: Thank you.

Detainee (through translator): When I went to the food warehouse, it had already been in service. The food warehouse position was not created for me. There were six Afghans in this warehouse and they had mules. There is very specific and traditional way to tie mules. I was not familiar with the area for me to distribute food. Some detainees in this detention facility were in Tora Bora. The interrogators should ask them who was responsible for distributing food in Tora Bora. I have a strong belief that the answer will be that the Afghans that came with the mules distributed food. I don't know why this allegation is against me and how it came about that I was responsible for distributing food. I could not refuse the type of responsibility that Abdul Akadus gave me because I needed his help. My responsibility was to record what came in and out of the food warehouse. I could not refuse when he asked me to keep inventory of the food supplies. It was not because I wanted to help him, but logically since this man was going to help

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[REDACTED]

[REDACTED]

me I could not have said no to him especially when I was sitting in the cave under his supervision and hospitality. Also, he was going to help me get out of Afghanistan. That's the point I wanted to clarify.

Presiding Officer: Thank you.

Board Member: Did Abdul Akadus carry a weapon?

Detainee (through translator): When I first met him, it was dark so I could not tell if he was carrying a weapon. I only spoke to him for about five minutes. When he visited the cave, he did not carry a weapon, but I understood that he was responsible for that place. I am sure that he carried a weapon since he was responsible for that place, but I did not see it. I do not know whether he was with al Qaida, the Taliban, or that he was just a normal person. I do not know him. I do not know his connections.

Board Member: You said that this cave or warehouse, we have heard both words, was already existing when you were brought there. Did you hear any information or did you know what this place was for that Abdul Akadus was in charge of? What was its purpose?

OL-25: I do not understand the question.

Board Member: Was it there to support any specific group such as the Taliban or al Qaida?

Detainee (through translator): This is a very important point. When we climbed the mountain and met with Abdul Akadus, he gave me a few directives. He told me, first of all, not to use my real name. He gave me a new name, Hudeyfa. He said not using my real name was a safe thing for me. He also told me, second of all, not to ask anyone for their names. He said that if I asked anyone for their names or asked questions, they would think that I was a spy. Naturally, I could not ask any questions. They did not say anything in my presence probably because they did not know me. They did not know whether I was a spy. Logically, they would not give out any secretive information in my presence. Also, all the people that were with me were Afghans and the conversations between Abdul Akadus and any of those Afghans were conducted in Pashtu. I do not understand Pashtu.

Board Member: Thank you. How long did you work for Abdul Akadus?

Detainee (through translator): I do not believe more than three weeks.

Board Member: Thank you.

Board Member: Can you spell the name that Abdul gave you?

[REDACTED]

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[REDACTED]

Detainee (through translator): Hudeyfa.

Board Member: Thank you.

Assisting Military Officer (for the Detainee): (4) The detainee said that while he was in Tora Bora, a Kuwaiti named Fouad Rabia was also there with him. The detainee stated that he often assisted Fouad Rabia because Rabia was in poor health and had difficulty moving around. The detainee said that one day Abdul Akadus came with two Afghans and took the detainee and Fouad Rabia out of the mountains and to a province called Wazir where they stayed in a family house. The two Afghans told them to stay in the house until they could arrange a way for them to get to the border. After staying at the house for about a week, a pick-up truck with armed individuals came by to take them to the border. The detainee said that during the ride they stopped at an unknown location and were left there with some other people. The detainee said that after they were left, he found out the people that they were left with were Northern Alliance and this was also when he found out that he was sold for \$5000 United States Dollars. The detainee stated that someone came later on and confirmed that he was sold and said that if he had more than \$5000 United States Dollars, he would be taken to the border. The detainee said that since he didn't have the money he was held by the Northern Alliance. The detainee said that later on he was turned over to United States forces.

Detainee (through translator): I would like to clarify this point. Fouad Rabia arrived a week after I was there.

Board Member: What was Fouad Rabia's job in Tora Bora?

Detainee (through translator): I would like to describe Fouad Rabia so that you have a clear idea about him. Fouad Rabia joined me in the mountain. He was a fat person and he had problems with his knee. I was helping him to go to the bathroom. He also had some type of disease in his eye that prevented him from seeing after sunset. In Arabic this disease is called dark supper.

Board Member: What was his job in Tora Bora?

Detainee (through translator): He did not do anything. He was just sitting there waiting for people to help him get to the border. I only knew him for three weeks. I helped him in the mountain because he needed help. For instance, a distance I could cross in half an hour, I spent six hours helping him cross the mountain because our movement was at night and he could not see or walk very well. Plus, the route we took out of Tora Bora was a very difficult path. The only information I received from him is that he was the director of the Kuwaiti Board of Relief. I would like the Board to take into consideration this very important point. When I was handed to the Northern Alliance and went to prison in Kabul, I met a young boy about 15 years old and his name was Hudeyfa. This

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[REDACTED]

[REDACTED]

was not his real name either; it was the name that was given to him. His father's name was Abdallah al Kuwaiti. Fouad Rabia, the person I helped, was also given the name Abdallah al Kuwaiti. I learned that there were two sets of people with the same names in Tora Bora. This was a coincidence. On the one hand, I and my friend were named Hudeyfa and Abdallah al Kuwaiti; on the other hand, there were Hudeyfa and Abdallah al Kuwaiti, father and son. The father was killed in Tora Bora. I do not know anything about this allegation against me. There were thirty-two other Arabs detained in the prison in Kabul and they are all here in this detention facility. If anyone of them were asked, they would confirm that after the father was killed, Hudeyfa, the son was handed over to the Kuwaiti authorities. These allegations are quite strange to me. It is possible that the information that was gathered about Abdallah al Kuwaiti and Hudeyfa, father and son, are being used against me and my friend because I was never associated with the al Wafa organization. I did not have any association with any type of relief organizations. I told the same story during the tribunal and it had been recorded. I don't know where these allegations came from. These allegations did not surface during the CSRT. When I read the Unclassified, I came to the conclusion that perhaps these allegations pertained to other people who carry the same name. This is the reason I would like to clarify this point and I would like for you to take it under consideration.

Presiding Officer: Thank you. We note that and will take it under consideration.

Board Member: You said that Fouad Rabia was the director of the Kuwaiti Board of Relief work or something like that. You also said that you were never associated with any relief organization and you used al Wafa as an example. Did you ever tell anyone that you worked with Rabia in his organization?

Detainee (through translator): This particular point has a story, a very short story. I was handed to the Northern Alliance and taken to prison in Kabul. There I met with the prison official who told me that there was no problem with me and that he was going to hand me over to the Embassy. But, I am a Palestinian; I do not have any Embassy. I was curious about where he was going to take me. The only solution I could think of at that time was to tell the Afghan interrogator in Kabul that I was from Qatar and that I worked with Fouad Rabia in his relief organization. This is the only reason why he said that I was involved with Rabia and his organization. The truth is that I had never met Fouad Rabia until a week later after I arrived in Tora Bora. We were handed to the Americans and we told the truth.

Board Member: Thank you.

Presiding Officer: Does that conclude your statement?

Detainee (through translator): Yes, this concludes my written statement.

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[REDACTED]

[REDACTED]

Presiding Officer: Did you want the Assisting Military Officer to present any other material?

Detainee (through translator): I would like to answer the allegations against me.

Presiding Officer: Please, go ahead.

Detainee (through translator): [DMO-1 (3.a.2) The detainee was at al Farouq Training Camp. The detainee was in charge of delivering food to the caves.] I would like to clarify this point because it is one of the irrational items on the Unclassified for many reasons. When I went to Afghanistan, it was during the attack. In my opinion, what I would have found logical was that this al Farouq training camp, as I learned here was part of al Qaida, would have been the first place to be attacked. Also, from the time I have entered Afghanistan to the time I was handed over to the Northern Alliance, it was about a month, a month and one half, or two months at the most. You as military personnel do you believe that I had enough time to go to al Farouq and receive all the training indicated in this Unclassified. One day during an interrogation, I was accused of the same allegation and when I went back to my cell, I shouted to the detainees that I did not want any association with whoever said they went to the al Farouq camp. A detainee answered that he had been to the al Farouq camp and I asked him to describe al Farouq to me since I had never been there. This was a detainee to a detainee conversation. This detainee said that al Farouq camp was a very vast area with lots of tents where people received training. He also said that there was a big place in that camp made of huts. The kitchen was a hut where they all gathered to eat. They took the food from that hut from Afghan cooks. The interrogators told me that I was at al Farouq camp in the cave in charge of delivering food and training. According to the statement from that detainee, there was no cave at al Farouq. People at al Farouq received food from that hut.

Board Member: Were you ever at al Farouq training camp?

Detainee (through translator): I was never at al Farouq for the reasons I just described.

Board Member: Thank you.

Detainee (through translator): This is a lie that I was delivering food at al Farouq because apparently from what another detainee stated, they all used to get together in one place and the food came from a hut. That's why I wanted to clarify that this particular point.

Presiding Officer: Thank you for the clarification. We will take that under consideration.

Detainee (through translator): [DMO-1 (3.a.3) The leader in a camp in Tora Bora, Afghanistan assigned the detainee to work as a supply distributor.] I have clarified this point previously. It was impossible for me to distribute food because of the technicality of tying mules and that there were six Afghans responsible for distributing food. I did not know the area well enough to distribute food either.

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[REDACTED]

[REDACTED]

Detainee (through translator): [DMO-1 (3.a.4) The detainee was the supply person in charge of bookkeeping and distributing food and weapons in Tora Bora. The detainee carried a hand held radio and often met with Usama bin Laden.] First of all, there is a person here, a detainee, named Fouad Rabia. He was in the same place with me during these three weeks. During the past tribunals, I had asked to Board to provide me with the testimony of this particular detainee who could testify that (1) during the period we were together, I had never carried a weapon; (2) there were no weapons at the place we were. (3) that place was a food supply warehouse that the Afghans were responsible for. (4) Usama bin Laden had never been in that place. I am still asking for the testimony of that person, either a written or an oral statement. I think this is my right to ask for it because this person was with at Tora Bora for the entire three weeks and we left together. Together we were sold to the Northern Alliance. I believe that this is a very important and simple thing because this man is here in this detention facility. I do not know why I was not able to have him as a witness.

Presiding Officer: I can answer that. For this proceeding we do not bring in other witnesses.

Detainee (through translator): How about a written statement?

Presiding Officer: A written statement, yes.

Detainee (through translator): I am a prisoner and most of the time I am shackled and locked up in my cell. I cannot go personally to that man and ask him for a written statement. I had asked for his testimony during the tribunals with CSRT and I am asking you again to please ask for a written statement from this person. This is a very important witness to me. I believe it would be a simple thing for you to contact the prison officials. It would probably take you five minutes to get this statement that would help my case. In the first ARB, end of the year ago, my Assisting Military Officer told me that I could provide any statement from anyone living anywhere in the world. This man is not living in a different continent. He is here with me in this detention facility. It would probably take him five minutes to write the statement that would be very helpful to me.

Presiding Officer: Did Fouad Rabia testify at your CSRT?

Detainee (through translator): No. I understood that he could not.

Presiding Officer: We just learned about you wanting a statement from him.

Detainee (through translator): I am sorry, but the first time we met, I told you that I wanted a testimony from him.

Board Member: Do you mean ARB 1?

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[REDACTED]

[REDACTED]

Detainee (through translator): The first time I met this linguist and this AMO, I told them that I had a witness in this detention facility that would be able to testify on my behalf.

Presiding Officer: Assisting Military Officer, do you have any record of that request?

Assisting Military Officer: That was from the oral statement, Sir.

Presiding Officer: We misunderstood that you wanted that statement here. It is a difference in the language.

Detainee (through translator): It is not necessary for that particular statement to be with us today, but it is important that you have it in my file because it would clarify a lot of the allegations against me.

Presiding Officer: We will ask for a statement from Fouad Rabia.

Detainee (through translator): I do hope so because this will help me tremendously.

Presiding Officer: We will do that.

Detainee: Thank you.

Detainee (through translator): [DMO-1 (3.b.1) The detainee was identified as someone who trained in hand weapons at al Farouq and later fought in Kandahar, Afghanistan.] This particular point is something that could not have happened at all. Is it reasonable to consider a person in two places at the same time? This is impossible. Unless a person is a ghost, he cannot be in two places at once. It has been proven in your file that I was handed over to the Northern Alliance in Jalalabad and after that I went to Kabul in prison and after that I was handed over to the Americans in Bagram. During that time, there was no fighting in Kandahar. How is it possible that I was in prison at the same time that I was fighting in Kandahar? This is not logical. Also, I have never been to al Farouq. I did not know that al Farouq was in Kandahar until I arrived here.

Presiding Officer: We will take note of that and consider your statement.

Detainee (through translator): [DMO-1 (3.b.2) Training was conducted on numerous weapons at al Farouq. The students received training on the Kalashnikov rifle, AKM and PK machine gun. They also familiarized themselves with the rocket-propelled grenade.] I do believe that these weapons need time to train on. I already explained that I did not have any time to go through any type of training. I did not receive any type of training on these weapons.

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[REDACTED]

[REDACTED]

Detainee (through translator): [DMO-1 (3.c.1) The detainee became acquainted with the leader of a humanitarian organization in Herat, Iran.] If by this person you mean Fouad Rabia, I previously told you how I met him. I met him a week after I climbed the mountain. But if you mean some other person, as I said previously, I have no connections or associations with any type of relief or organization. This is a vague statement. I do not know whether you mean Fouad Rabia or some other person.

Board Member: With respect to Fouad Rabia, you told us here today that you met him in the Tora Bora Mountains as you were trying to leave Afghanistan. You also told us that you told interrogators in Kabul that you worked in Fouad Rabia's organization. When did you tell them you met Fouad Rabia?

Detainee (through translator): What do you mean by interrogators?

Board Member: Earlier I asked you if you had ever told anyone that you worked in Fouad Rabia's organization and you said that you had told interrogators in Kabul.

Detainee (through translator): By interrogators, I meant the Afghan prison personnel in Kabul. This was before I was handed over to the Americans. There were no American interrogators at that place. I said that I was involved with this organization just to provide a type of identification because I was going to be handed over to the Embassy. And as I said previously, I am a Palestinian and there was no Embassy to hand me over to. So to me the solution was to say that I was from Qatar and that I worked with Fouad Rabia. Do you understand very well?

Board Member: I understand very well, but I would like to know what you told these people with respect to when and where you met Fouad Rabia and if you worked with him.

Detainee (through translator): Again it was not an interrogation. They did not ask me these types of questions. They only asked for my name and where I came from.

Board Member: Thank you.

Detainee (through translator): [DMO-1 (3.c.2) The leader of the humanitarian organization was a major operator for the Al Wafa Non Governmental Organization who likely transferred large sums of money through a front company called Summit Health Club in Afghanistan.] First of all, if you have any information about this al Wafa organization I would like to know where it is exactly. Again this is a very broad statement because I do not know whether you are talking about Fouad Rabia or someone else.

Presiding Officer: The statement is about Fouad Rabia.

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[REDACTED]

[REDACTED]

Detainee (through translator): I previously told you how I met Fouad Rabia. Whether he transferred large sums of money, whether he worked for al Wafa, I am not aware of that. The only thing he told me was that he worked for the Kuwaiti Relief Organization.

Presiding Officer: We do understand what you are saying about the second statement.

Detainee (through translator): [DMO-1 (3.c.3) The detainee was in Tora Bora handing out supplies to the Mujahedin fighting there. The detainee was working for al Wafa at the time.] I have clarified what my job was in Tora Bora. I have no connections or associations with the al Wafa organization.

Detainee (through translator): (3.c.4) The detainee was seen in the Towr Khom Mountains at the same time as Usama bin Laden.] I heard about Tora Bora for the first time here in this detention during an interrogation. This is the first time I am hearing about Towr Khom. There was no mention of Towr Khom or this allegation during the previous interrogations. Perhaps you could clarify Towr Khom for me. This allegation did not surface during the tribunal and I have never heard of Towr Khom.

Presiding Officer: We will check on where the statement came from. But Towr Khom is right on the border between Afghanistan and Pakistan.

Detainee (through translator): You have it in your file that I was not able to leave Afghanistan to Pakistan. I only traveled from Tora Bora to the Wazir province. After that I was handed over to the Northern Alliance. I entered Afghanistan through Iran not Pakistan through Herat, so I do not know where the borders of Pakistan and Afghanistan are located.

Presiding Officer: We understand.

Detainee (through translator): [DMO-1 (3.d) The detainee stated he would go into Afghanistan and collect a list of items to bring.] First of all, what do you mean by stated? The word stated means that I had said this. Is this true?

Presiding Officer: That is correct.

Detainee (through translator): I am responsible for every word that I have said during the tribunal and the previous board because my voice was recorded in both occasions. Other than that I am not responsible for any statement I did not make. First of all, I have not talked about this point to anyone. Second of all, I have not signed any documents pertaining to this particular statement. I do not know where this allegation came from. It said here that I would collect a list of items which refers to some type of relief organization and I have said to you that I do not have any associations with these types of organizations.

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[REDACTED]



Presiding Officer: So, during your interrogation you never said this?

Detainee (through translator): I have no association with any type of relief organization. I suspect that there might be a connection between certain allegations on this Unclassified and other people who carry the same names Abdallah al Kuwaiti and Hudeyfa. I believe that the information that was gathered on these people have been applied against me. I do not see any other logical explanation behind this.

Presiding Officer: We will try to figure that out.

Detainee (through translator): [DMO-1 (3.e) During evacuation from Tora Bora to Pakistan, the detainee and the leader of the humanitarian organization were captured by the Northern Alliance.] Again I have clarified that I was not captured. There is a difference between being sold and being captured.

Presiding Officer: We note that.

Presiding Officer: You have been very courteous to us and to the Assisting Military Officer. We note that and it shows respect for the proceeding, but I am puzzled by how that squares with the orange outfit you are wearing.

Detainee (through translator): I would like to clarify this. I would like you to consider certain points from a person who has been detained for five years and knows that he does not deserve detention. The first year of detention I believed that the Board and the interrogators were looking for the truth. That's why I did not have any problem the first and second year here because I know what happened to the United States was a very dangerous situation. I also know that the United States of America had to defend itself any way possible. There were two long years where the detainees were very patient because we believed the situation was very important and also dangerous. But being detained for five years is a very difficult thing and it is still continuing. Even if I am a detainee, I am still a human being. Let's say that I am a criminal, I would still be a human being. I believe in this country that criminals are people who have killed and committed crimes and they go to prison, but they are still human beings. Even if I were a criminal, I would still be a human being. To be free is one of my rights, especially when I am completely convinced that I have not committed any crimes against the United States. I know this about myself very well. This is one point. The second point is that we have been subjected to hostile treatments in this detention facility and I am convinced that you know about it. This is not secretive information; it has gone out to the press and everyone knows about it. There is a psychological program that the detainees are subjected to and all of you know about it. This type of program you actually train your troops on it. Unfortunately it was not just the interrogations, but also the administration, and the guards have been applying the same program. There is no respect for human or religious rights and we are being subjected to humiliation. As I told you, I am still a human being. Naturally a person can be patient the first, second and third time, but it is

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[REDACTED]

human nature to have a reaction afterwards. This is a good point and very important also because it has something to do with security procedures that pertain to the detention administration. They avoid any type of cooperation between the guards and the detainees; they implement programs for the guards and make them hostile toward the detainees. That's why you find these types of reaction from the detainees in retaliation to the hostility of the guards. But I did not do anything to humiliate the guards. For example some detainees have thrown urine at the guards, I have never agreed nor have I ever done that. I just asked for my rights based on the directives of the detention facility for the guards. When one of the guards mistreat me and I ask for an official or his boss, the guard doesn't like that, and at the end the guard writes what he wishes in a statement and consequently, I receive punishment based on the guard's statement. For example I am wearing this orange suit because I had a problem with my wrist. I went to the doctor who gave me a bandage for my wrist. There were directives on the computer that when the guards come to handcuff me that I should hold him because I shouldn't hurt my wrist. One of the guards came and I explained that I had pain in my wrist. The guard said, "I don't care." I was very patient so he could take the handcuffs off and as he was taking them off he twisted my hand. I was in such pain that I could not bear it. I simply removed my hand from his. That's all I did. I am still a human being and I do feel pain. However, the statement that the guard had written said that I removed my hand so that I could hit him. Of course my punishment was based upon the statement the guard wrote. That's why I look like a bad person today.

Presiding Officer: What color uniform were you wearing when that happened?

Detainee (through translator): White suit. I would like to say that the statements regarding detainees' behaviors are not true.

Presiding Officer: We note that and we will take that into consideration.

Detainee (through translator): Thank you. I would like to tell you why I do not believe that I am threat to the United States.

Presiding Officer: Please do.

Detainee (through translator): I do not carry any type of hostility toward the United States. On the contrary, when I was young, I was dreaming that I would, one day, go to the United States. I could not do that. I do not belong to al Qaida or the Taliban because I do not believe in the beliefs of al Qaida or the Taliban. I have elaborated upon this clearly during my interrogation. During these five years nothing has been proven. There is no proof that I belonged to any type of terrorist organizations or that I committed any wrong doings. There is no other country after me. I am a very civilized person and I do believe that solving problems is done through communication not through fighting. I believe in peaceful coexistence among human beings even if there is a difference of religion or nationality. It boils down to the fact that all of us are human beings. The

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[REDACTED]

[REDACTED]

directives in my religion are very strict even during fights: you should not kill a child, a man who does not carry a weapon, an elderly, a woman, do not cut a tree, and do not burn a house. These are very important and crucial directives in my religion. If a Muslim does any different, it does not mean that all of them are responsible for this type of behavior. In every religion, either Christianity or Judaism, there are people who do not follow their religion's directives. It does not mean that all the Christians or Jews are wrongdoers. I do not carry any hostility toward the United States and I do not have any interest in that either. As I said before, when I was young I really wanted to go to the United States because I have always heard that in America there is freedom, human right, democracy, and high standards of living. This is a dream for any young person. As I said before, I am a Palestinian, a refugee and I do not have a country. I have a wife, and two boys. I do need to find a country. I don't have any interest any hostility against any country. As far as my reaction toward the hostility of the guards, this is a very natural thing. Once one gets released everything will be forgotten. I do not have any hostility toward the United States. I am not a young person. I am not an enemy of the United States. That is all I have to say.

Presiding Officer: Thank you for your statement. Thank you for your courtesy. Do I understand correctly that concludes your statement?

Detainee (through translator): I would like to also tell you about my plans once I am released.

Presiding Officer: Please do.

Detainee (through translator): Because of my personal situation that I already explained to you, my first responsibility would be to find a country and my family that I left in Iran and I don't know what happened to them. I would like to persevere in finding a better life because I have been deprived of a normal life the past five years that I have been detained here.

Presiding Officer: Have you heard from your family by mail?

Detainee (through translator): No.

Presiding Officer: Does that conclude your statement?

Detainee (through translator): Yes. Thank you.

The Assisting Military Officer had no further questions for the Detainee.

The Designated Military Officer had no further questions for the Detainee.

The Administrative Review Board Members had no further questions for the Detainee.

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[REDACTED]



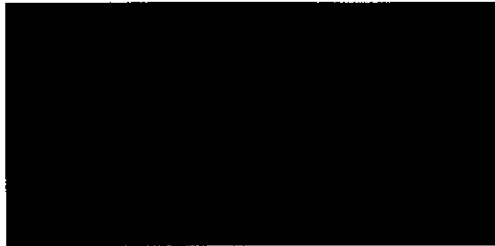
The Presiding Officer read the post-Administrative Review Board instructions to the Detainee and adjourned the open session of the Administrative Review Board.

The Presiding Officer opened the classified portion of the session.

The Presiding Officer adjourned the classified portion of the session and the Administrative Review Board was closed for deliberation and voting.

AUTHENTICATION

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



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Enclosure (5)
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b(2)

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

MAHER EL FALESTENY)

Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-2386 (RBW)

b(2)

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SERIAL: b(2) b(2)

COUNTRY: b(2) AFGHANISTAN (AF); EGYPT (EG); KUWAIT (KU); WEST BANK (WE); YEMEN (YM).

IPSP: b(2) b(2)

SUBJ: b(2) b(1) b(2)

WARNING: b(2) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. b(2)

DEPARTMENT OF DEFENSE

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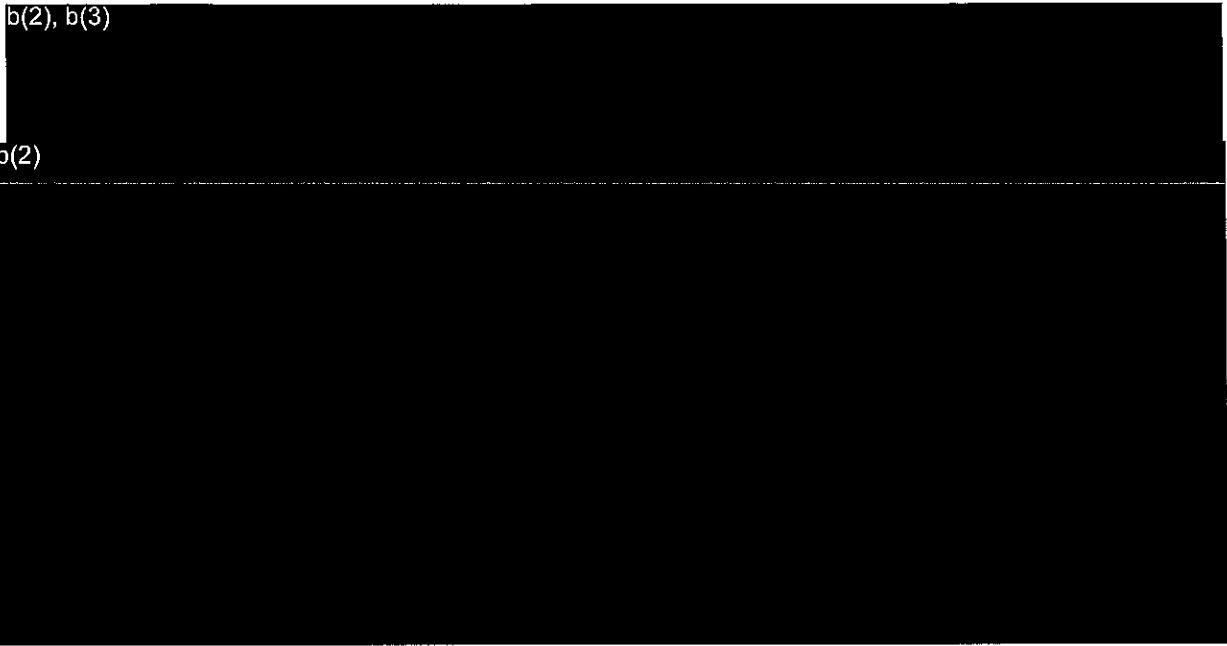
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SERIAL: b(2) b(2)

COUNTRY: b(2) AFGHANISTAN (AF); BOSNIA AND HERZEGOVINA (BK); EGYPT (EG); SAUDI ARABIA (SA); TURKEY (TU); RUSSIA (RS); YEMEN (YM).

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DEPARTMENT OF DEFENSE

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SUBJ: b(2) b(1)
b(1) b(2)

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b(2)

DEPARTMENT OF DEFENSE

DOI: b(2) b(2)

REOS: b(2) b(2)
b(2)

SOURCE: b(2) b(2) b(1), b(6)
b(1), b(6)

SUMMARY: b(2) c(1)
b(1)

TEXT: 1. b(2) MAHER b(1), b(6)
b(1), b(6)

b(1), b(2)

2. b(2) b(1), b(6)
b(1), b(6)
b(1), b(6) b(1), b(2), b(6)
b(1), b(2), b(6)

COMMENTS: 1. b(2) b(2) b(1), b(5)
b(1), b(5)

2. b(2) b(1), b(5)
b(1), b(5)

3. b(2) b(2)
b(2)
4. b(2) b(2)
5. b(2)
b(2)

6. b(2) b(2), b(3)
b(2), b(3)

b(2)

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b(2)

IN THE UNITED STATES DISTRICT
FOR THE DISTRICT OF COLUMBIA

MAHER EL FALESTENY)

Petitioner,)

v.)

GEORGE W. BUSH, *et al.*,)

Respondents.)

Civil Action No. 05-2386 (RBW)

b(2)

b(2)

b(2)

b(2)

b(2), b(3)

b(2)

b(2)

b(2) c(3)

SUBJ: b(2) b(1) b(2)

b(2)

PAGE 6 b(2)

SERIAL: b(2) b(2)

COUNTRY: b(2) AFGHANISTAN (AF); SAUDI ARABIA (SA).

IPSP: b(2) b(2)

SUBJ: b(2) b(1) b(2)

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DOI: b(2) b(2)

REQS: b(2) b(2)

b(2)

PAGE 7 b(2)

SOURCE: b(2) b(2) b(1), b(6)

b(1), b(6)

b(1), b(6)

SUMMARY: b(2) c(1)
b(1)

TEXT: 1. b(2) c(1), b(6)
b(1), b(6)

MAHER
b(1) b(1), b(2)
b(1), b(2)
b(2) b(1), b(6)
b(1), b(6)

PAGE 8 b(2)
b(1), b(6)
b(1), b(6) b(1), b(6)
b(1), b(6)

2. b(2) b(1), b(5)
b(1), b(6)

b(1), b(6)

COMMENTS: 1 b(2) b(2) c(1), b(5)
b(1), b(5)

2. b(2) c(1), b(5)
b(1), b(5)
b(1), b(5) b(1), b(5)
b(1), b(5)

PAGE 9 b(2)
b(1), b(5)

3 b(2) b(2)
4 b(2) b(2)
b(2)

5 b(2) b(2)
b(2)
b(2), b(3)

PAGE 10 b(2)
b(2), b(3)

[Redacted]

b(2)

[Redacted]

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b(2)

b(2)

b(2)

SERIAL: b(2)b(2)

COUNTRY: b(2) AFGHANISTAN (AF).

IPSP: b(2)b(2)

SUBJ: b(2) b(1), b(2)
b(1), b(2) |b(2)

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DOI: b(2)b(2)

REQS: b(2) b(2)
b(2)

SOURCE: b(2) b(2) b(1), b(6)
b(1), b(6) |b(1) b(1), b(5)
b(1) b(1), b(5)

SUMMARY: b(2) b(1)
b(1)

TEXT: 1. b(2) b(1)
b(1) b(1), b(6)
1A. b(2) b(1) b(1), b(6)
b(1), b(6) b(3)
b(1), b(6)

b(1), b(6)
1B. b(2) b(1) b(1), b(6)
b(1), b(6)

b(1), b(6)

1C. b(2) d(1)
b(1), b(5), b(6)

b(1), b(5), b(6)

1C1. b(2) d(1), b(6)
b(1), b(6)

1C2. b(2) b(1), b(6)
b(1), b(6)

1C3. b(2) d(1), b(6)
b(1), b(6)

b(1), b(6)
1C4. b(2) d(1), b(6)
b(1), b(6)

b(1), b(6)
1C5. b(2) d(1)
b(1)

1C6. b(2) b(1), b(6)
b(1), b(6)
b(1), b(6)

1C7. b(2) d(1), b(6)
b(1), b(6)

1D. b(2) b(1)
b(1), b(6)

b(1), b(6)

1D1. b(2) d(1)
b(1)

b(1)

b(1)

1D2. b(2) b(1)
b(1)

1D3. b(2) b(1)

b(1) b(1), b(6)

1E. b(2) b(1)
b(1), b(6)

1F. b(2) b(1) b(1), b(6)
b(1), b(6)

2. b(2) b(1)
b(1)

2A. b(2) b(1), b(6)
b(1), b(6)

2B. b(2) b(1) b(1), b(6)
b(1), b(6)

3. b(2) b(1)

b(1) b(1), b(6)
3A. b(2) b(1)
b(1), b(6)

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b(1), b(6)

b(1), b(6)

3B. b(2) | b(1) b(1)

b(1)

3B1. b(2) c(1) b(1)

b(1)

3B2. b(2) c(1)

b(1)

b(1)

3B3. b(2) b(1), b(6)

b(1), b(6)

3C. b(2) c(1) b(1), b(6)

b(1), b(6)

b(1), b(6)

4. b(2) b(1), b(6)

b(1), b(6)

4A. b(2) b(1) b(1), b(6)

b(1), b(6)

4B. b(2) b(1) b(1), b(6)

b(1), b(6)

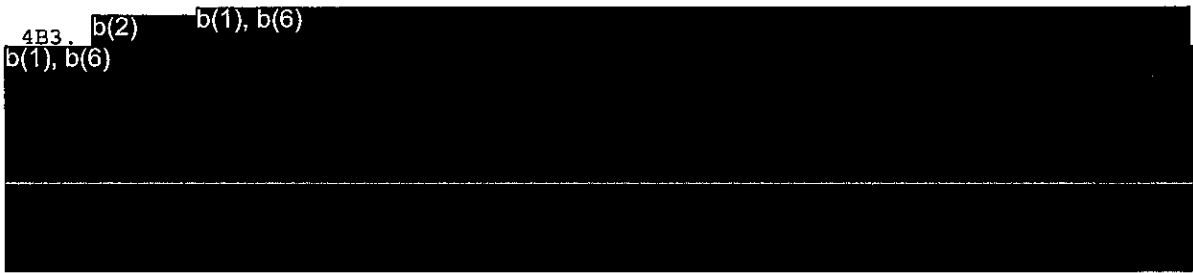
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b(1)

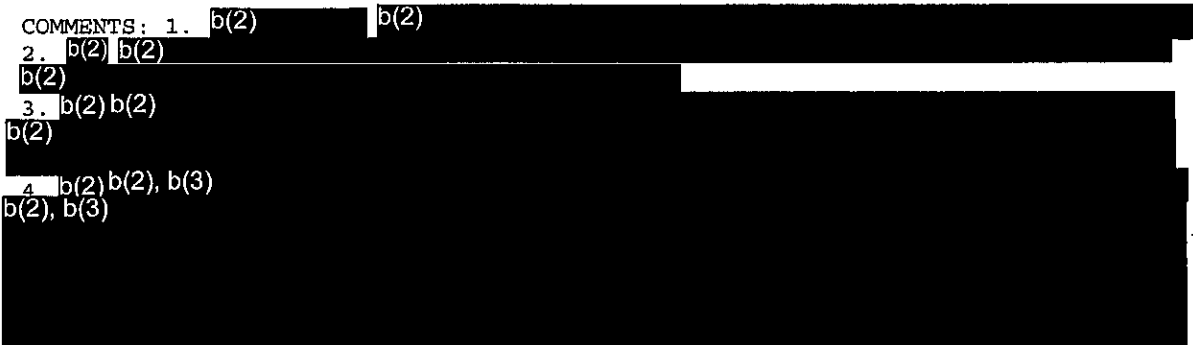
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b(1), b(6)

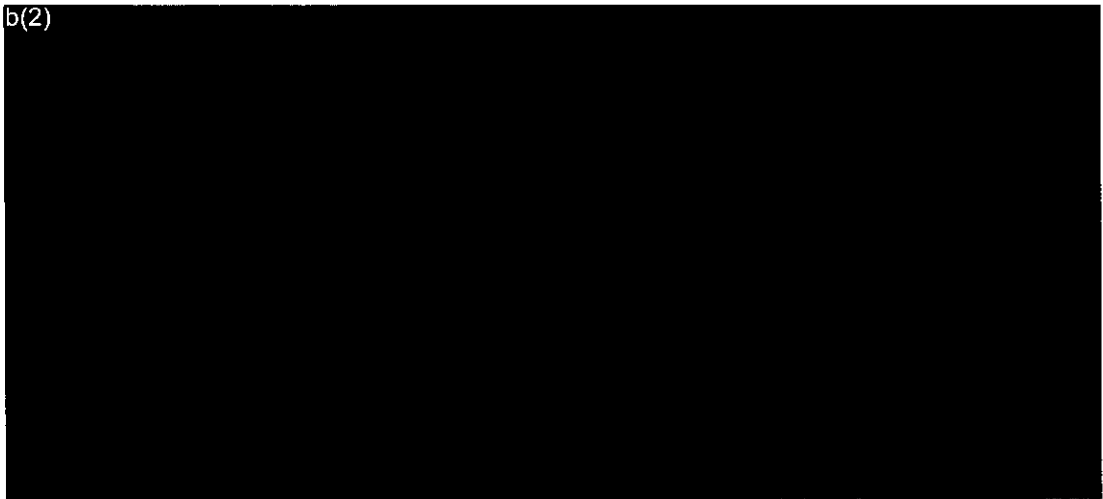
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b(1), b(6)



COMMENTS: 1. b(2) b(2)
2. b(2) b(2)
b(2)
3. b(2) b(2)
b(2)
4. b(2) b(2), b(3)
b(2), b(3)



b(2)



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Civil Action No. 05-2386 (RBW)

b(2)

b(2)

b(2)

SERIAL: b(2)b(2)

COUNTRY: b(2) AFGHANISTAN (AF).

IPSP: b(2)b(2)

SUBJ: b(2) b(1)
b(1) b(2)

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DOI: b(2)b(2)

REQS: b(2)b(2)
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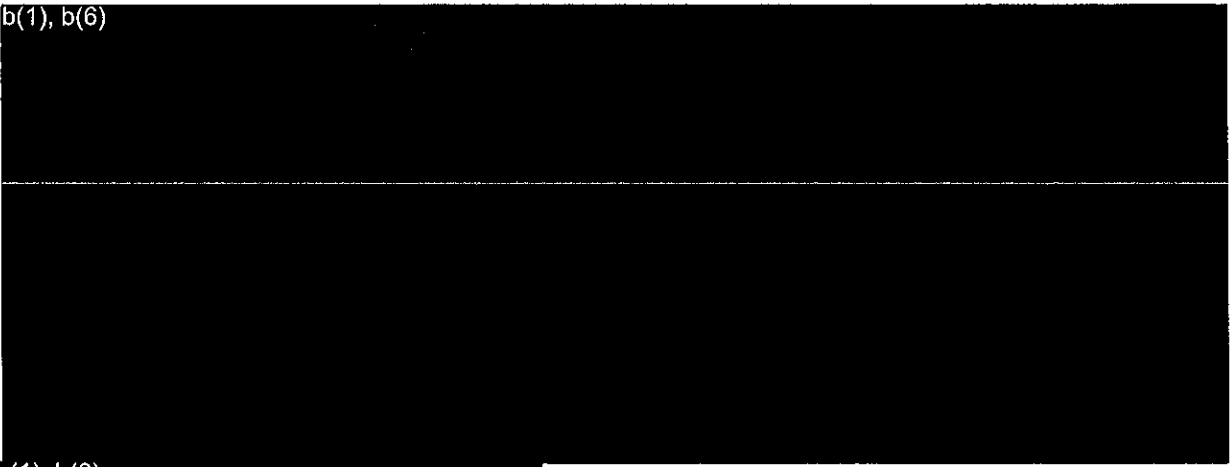
SOURCE: b(2) b(2) b(1), b(6)
b(1), b(6) b(1)
b(1) b(1), b(5)
b(1), b(5)

SUMMARY: b(2) b(1)
b(1)

TEXT: 1. b(2) b(1) b(1), b(6)
b(1), b(6)

b(1), b(6)
2. b(2) b(1) b(1), b(6)
b(1), b(6)

b(1), b(6)



b(1), b(6)

3. b(2)
b(1)

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b(1)

3A. b(2)
b(1)

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b(1)

3B. b(2)
b(1), b(6)

b(1)

b(1), b(6)



b(1), b(6)

b(1), b(6) 3c. b(2) |b(1) b(1), b(6)

b(1), b(6)
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b(1), b(6)

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b(1), b(6)
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b(1), b(6)
b(1), b(6)

b(1), b(6)

3D. b(2) |b(1)
b(1)

b(1)

b(1)
b(1), b(2), b(6)

|b(1)

MAHER b(1), b(2), b(6)

b(2)
b(1), b(6)
b(1), b(6)
b(1)

b(1), b(6)

b(1), b(6)

b(2)

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b(1)

3D1. b(2)
b(1), b(6)

|b(1), b(6)

b(1), b(6)

b(1), b(6)

4. b(2)
b(1)

|b(1)

b(1)

b(1)

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

COMMENTS: 1. b(2) |b(2) b(1), b(5)
b(1), b(5)

b(1), b(5)
b(2)

|b(2)

2. b(2)b(2)
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3. b(2) b(2)
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4. b(2)b(2), b(3)
b(2), b(3)

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