



Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0215
15 October 2004

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From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 061

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #061 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM. CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
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OARDEC (Fwd)
CITF Ft Belvoir

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14 Oct 04

MEMORANDUM

From: Legal Advisor
To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 061

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b). Note that the Tribunal's several references to "Exhibit R-12" in paragraph 1 of enclosure (2) to their Decision Report appear to be typos. The Tribunal was more likely referring to exhibit R-19.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # 061 is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.


JAMES R. CRISFIELD JR.
CDR, JAGC, USN

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Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED] Colonel, U.S. Air Force; President

[REDACTED] Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED] Lieutenant Commander, U.S. Navy; Member

J. M. McGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve

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HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

6 October 2004

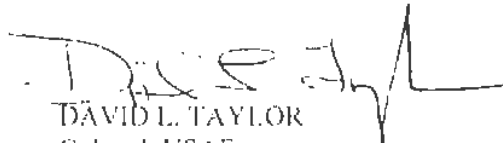
MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 061

1. Pursuant to Enclosure (1), paragraph (1)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the Combatant Status Review Tribunal Decision Report for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

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(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #5

(U) ISN#: 061

Ref: (a) (U) Convening Order for Tribunal #5 of 17 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

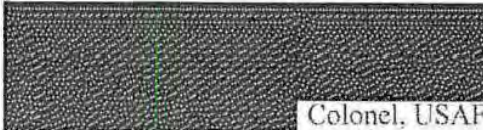
Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) (U) Summary of Detainee/Witness Testimony (U)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 30 September 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).

2. (U) On 30 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #061 is properly designated as an enemy combatant as defined in reference (c).

3. (U) In particular, the Tribunal finds that this detainee is a member of al-Qaida as more fully discussed in the enclosures.

4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).



Tribunal President

Colonel, USAF

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**UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

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

TRIBUNAL PANEL: #5

ISN #: 061

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of al-Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member or ally of al-Qaida or its network and that the detainee participated in activities with a group that is part of al-Qaida network. Those allegations are as follows:

1. The detainee admitted he traveled from Frankfurt, Germany to Karachi, Pakistan (via plane), to Islamabad, PK (via plane), and to Lahore, PK (via bus) and unnamed village (vicinity of Peshawar, PK) and attempted travel back to Peshawar when he was arrested and brought into custody.
2. The timeline associated with the detainee is as follows: Became associated with an Islamic missionary group named Jama'at-Al-Tabliq in June 01, the United States is attacked on 11 September 01, travels to PK on 3 October 01, continues travels until his capture.
3. Detainee is a close associate with, and planned to travel to PK with, an individual who later engaged in a suicide bombing. Selcuk Bilgin possibly is the Elananutus suicide bomber.
4. The detainees stated he received free food, lodging and schooling from a NGO known to support terrorist acts against the United States while traveling in PK. He was sponsored by this NGO.
5. The detainee admitted that the school in Lahore, PK was run by this NGO, specifically the NGO President.

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Enclosure (1)
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The detainee chose to participate in the Tribunal process. He called no witnesses and requested no documents be produced. He made a sworn verbal statement in which he attempted to explain the reasons for his trip to Pakistan and denied being a member of al Qaida.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-24
- b. Sworn testimony of the detainee

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

The Detainee requested no witnesses; no rulings were required.

The Detainee requested no additional evidence be provided.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The Recorder offered Exhibits R-1, R-2 and R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 is an Affidavit of Rabiye Kumaz. Mrs. Kumaz is the detainee's mother and provided the detainee's background and confirmed the date the detainee departed Frankfurt, Germany to Pakistan. Exhibit R-3 is a sworn affidavit of Bernhard Docke, a lawyer retained for the detainee's Habeas Corpus case. The Tribunal found this information somewhat helpful in making its determinations, but considered the sworn testimony of the detainee. The detainee explained that he frequented a mosque in Bremen, Germany that was considered moderate in its views of Islam and tolerant of other religions; however, it also housed a branch of the Jama'at-Al-Tabliq (JT), a Muslim missionary organization, alleged to support terrorist organizations. The detainee stated that an Imam for JT advised the detainee to travel to Pakistan to immerse himself in the study of Islam. The detainee then purchased a ticket to Pakistan, and with this friend Selcuk Belgin, they began their travels. Upon checking in for the flight to Pakistan in Frankfurt, the detainee's friend, Mr. Belgin, was arrested. Mr. Belgin stated that he was arrested because he had outstanding warrants as a result of his dogs biting people. Mr. Belgin is the alleged Elalanutus suicide bomber. Once in Pakistan, the detainee testified that he traveled to Lahore to attend the JT Muslim school there and traveled to Peshawar, Pakistan for further studies. Upon his return from Peshawar to Lahore the Pakistan Police stopped the

bus he was traveling on and arrested him. The Pakistani Police asked the detainee about Mr. Belgin and his relation with the detainee and then turned him over to Americans who transferred him to Bagram Airbase for further travel to Guantanamo Bay, Cuba. Tribunal had to look to the detainee's sworn statement and classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's testimony and the affidavits submitted by the detainee's mother and habeas attorney. A summarized transcript of the detainee's testimony is attached as CSRT Decision Report Enclosure (3). He denied being a member of al Qaida, but confirmed that he went to Pakistan to study the Koran at the advice of a Jama'at-Al-Tabliq Imam. The Tribunal found certain aspects of the detainee's testimony persuasive, but also turned to classified sources for further clarification.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.

b. The detainee understood the Tribunal proceedings. The detainee asked no questions regarding his rights and actively participated in the hearing.

c. The detainee is properly classified as an enemy combatant. Specifically, he is a member of al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,


Colonel, USAF
Tribunal President

**(U) CLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION**

(U) (Enclosure (2) to Combat Status Review Tribunal Decision Report)

(U) TRIBUNAL PANEL: #5

(U) ISN #: 061

1. ~~(S//NF)~~ The Tribunal found the following classified evidence persuasive in making its determinations: Exhibit R-19 is the Southcom updated assessment and recommendation regarding the detainee. Exhibit R-12

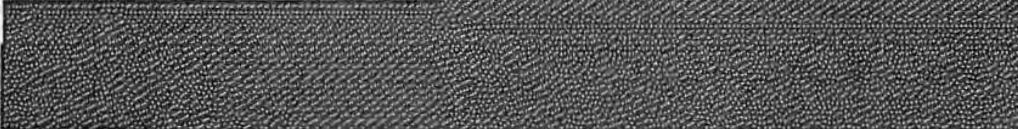
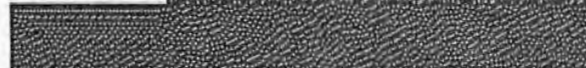

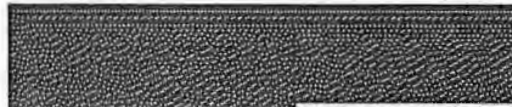


Exhibit R-19

 Exhibit R-12 is a recent assessment (25 June 04) regarding the detainee and was very persuasive in determining enemy combatant status.

2. ~~(S//NF)~~ The Tribunal found the following classified evidence unpersuasive in making its determinations: All other exhibits were not persuasive in that they seemingly collaborated the detainee's testimony  and appeared to conflict with Exhibit R-19. Most exhibits were distillations of interrogation reports and merely reiterated the detainee's apparent cover story. While these exhibits were plausible in supporting the detainee's story, they were not persuasive.

3. (U) The Tribunal also relied on certain unclassified evidence in reaching its decision. A discussion of the unclassified evidence is found in Enclosure (1) to the Combatant Status Review Tribunal Decision Report.



Colonel, USAF

Tribunal President

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Summarized Sworn Detainee Statement

[When the Tribunal President described the Tribunal process to the Detainee, the Translator stated he needed a short recess. During the recess, the first Translator was replaced with another Translator for the Tribunal process. During the recess, the Tribunal President gave the Oath to the new Translator.]

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

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: I will wait.

Tribunal President: If you have a question, you may ask it at that time.

[After the Recorder presented the Unclassified Summary and read paragraph 3.a.3: "Detainee is a close association with, and planned to travel to Pakistan with, an individual who later engaged in a suicide bombing. Bilgin possibly is the Elalanutus suicide bomber." The detainee asked the following question:

Detainee: Where are the explosives? What bombs?

[Recorder to Tribunal President:] Sir, I don't believe I can answer in this session.

Tribunal President: I certainly cannot answer because this is the first time I have seen this evidence. It is my understanding that anything remaining concerning this individual (Bilgin) is in the classified session.

Detainee: Should I answer the question now, or later?

Tribunal President: You will have an opportunity in a moment to address this in any matter you would like.

When asked by the Tribunal President if he wanted to make a statement, the detainee stated yes and provided his statement after electing to be sworn. The detainee testifies essentially as follows:

Detainee: I am here because Selcuk Bilgin had bombed somebody? I wasn't aware he had done that. My association with him is not as a terrorist. We exercised together at the gym and played sports. We both raised dogs, and because of this common interest, we became very good friends. Even though he was several years older than me, he was like a big brother. I wasn't aware he had done those things. I don't need friends like that. I am a Muslim from Germany. I didn't start praying until I was eighteen or nineteen years old. My parents are not Muslim and they don't pray. My religion is peaceful. No one

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has the right to kill anyone because they don't pray. If I were a terrorist, I wouldn't have needed to go to Pakistan. For example, if I killed people because they didn't pray, I would have started with my mother and father. They would be the first ones I would have killed, because they didn't pray. I love my mother and father more than anyone. I also have a lot of friends that don't pray. At the time I didn't pray, no one had the right to kill me because of it.

I never supported terrorists and I still don't support terrorism. I just want peace, to be a Muslim, and pray to God. That is the reason I wanted to study Islam from Jamayat Al Tabliq. Now I hear Jamayat Al Tabliq supports terrorism. I never knew that. The Muslims in Germany are peaceful people. They never talked about terrorist acts or that they support terrorism.

I have a lot of German friends that are Christians. If I supported terrorism and killing Christians, I could have done that in Germany. It would have been easier than traveling to Pakistan. My reason for going to Pakistan wasn't to kill anyone or learn about weapons, it was to study Islam. In Germany, Islam was only taught on weekends; therefore, it would take a few years to learn what would only take a month in Pakistan. Turkey and Saudi Arabia also had schools, but they also took longer. I didn't have any connections with any Muslims in Saudi Arabia. The Muslims I knew in Germany talked about the school in Pakistan. Although I didn't know them very well, I believed they studied Islam in Pakistan. That is the reason I went to Pakistan.

When I went to the school in Lahore, I asked if I could study Islam. I was told they would have to ask their leader. His name was (inaudible). I was then told that the leader wasn't in Pakistan; therefore, I couldn't talk to him. I was given a room for the night and food. The next morning, before I left, I was given breakfast. It was the day the war started in Afghanistan with the Americans.

After I left Lahore, I visited Jamayat Al Tabliq in different mosques. In one of the mosques, Mohammad helped me study Islam. He told me he would get me free food. It wasn't really free food. About five people would buy food for the ten to twenty people that were there. The next day, someone else would buy the food the next day.

I don't remember the exact date, but I was in Pakistan four or five weeks before I was put in jail. At that time, I learned a lot about the Koran and how to pray. The Pakistani's pulled me off the bus to talk to me. They told me they wanted to check my citizenship paperwork. I didn't understand what they were saying because they were talking in their native language. They ended up taking me to a room and asking me questions. A man with a turban wanted to know what I was doing in Pakistan. He had asked if I was an American or a journalist. After I told him I was a Turkish citizen living in Germany, he telephoned someone. After asking me several more questions, he took me to a room and told me to relax. I was then told I could use my plane tickets to go home. I explained to them I had a Visa. I asked them why so many questions? I didn't do anything wrong in Pakistan. They told me there wasn't any problems, they just wanted to take me to the

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airport. Later that evening, I was told I had to sleep with the prisoners. I had no choice the police had guns. The next I knew I was put in chains and my eyes were covered. I was taken to a house and put in isolation for approximately one week. After I was interrogated, I was taken back to the underground jail. Later, Americans came and interrogated me. After two days, a mask was placed over my head and I was handed over to the Americans. I was put on a plane and taken somewhere. I was told it was Kandahar, but I wasn't sure. After a few months, they brought me to Cuba.

I didn't do anything wrong in Pakistan nor did I harm anyone in any country. I have never been to America, before or after 11 September. I didn't have any reason to go to Afghanistan. My Visa was issued in Germany to travel to Pakistan not Afghanistan.

(inaudible) told me Selcuk had blew up himself and someone else. I never knew about that and he had never done anything like that before. When I knew Selcuk, he was a good friend of mine. He exercised a lot; he was a nice guy. After Selcuk got married, we didn't spend much time together. He didn't go to the gym as often and I was busy studying art.

A few weeks after I started going to the Mosque to pray, I saw Selcuk at the mosque praying. I told him about my trip to Pakistan. He told me he thought going to Pakistan was a good idea and he wanted to go with me. I never knew he was a terrorist or that he thought about those kinds of things. I am not an expert in Islamic religion, but I know the Koran says if you kill yourself, you will go to hell. That is one reason why I can't support terrorism. Terrorists kill themselves and several others.

My family is in Germany. A terrorist attack could occur there anytime and my parents could be killed. I have never supported terrorism in anyway. I am smart enough to realize terrorism has nothing to do with Islam. I didn't know Jamayat Al Tabliq supported terrorism because that was never discussed and I never saw anything to indicate they did. I enjoyed living in Germany. I don't hate anyone because of his religion. I have never had problems with Christians or anyone else. Many of my German friends are Christians. We work and eat together.

I have never supported terrorism. I hate terrorist. I am here having lost a few years of my life because of Usama Bin Laden. His beliefs show Islam in the wrong way. I am not angry with Americans. Many Americans died on 11 September in the terrorist attack. I realize the Americans are trying to stop terrorism. I think it is very noble. All countries should do the same thing. Because Usama Bin Laden said he is a Muslim and he has killed many people, several Muslims were arrested. I am a Muslim, but I am not a terrorist. If I could prevent terrorism, I would. Islam is a peaceful religion. It should not be mixed up with terrorism. I don't know why Usama Bin Laden hates certain countries and other religions. Usama Bin Laden wants help from all Muslims. What he is doing has nothing to do with Islam. I am a Muslim, I am fasting, but I don't hate anyone because of his religion. There wasn't a war between America and Saudi Arabia. The

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Americans have a right to defend themselves after the attack by Muslims on 11 September. I am sure 11 September had nothing to do with Islam.

I have never received any military training. The Turkish Army wanted me in the military. I didn't go. I took a few years (inaudible). I don't like the Army. I like doing different jobs. I am not a terrorist and I have never supported terrorism. If any Muslim talked to me about terrorism, I would tell them to their face it was wrong. I would do everything I could to stop them. I don't have any proof to show you, but I didn't harm or kill anyone. I didn't steal anything from anyone.

I went to study in Pakistan at the wrong time. I wasn't aware there was a war going on in Afghanistan. I heard on the news Americans wanted to stop Usama Bin Laden with special teams and mortars or something. I didn't know the war had started. When I traveled to Pakistan the war hadn't started. Even if the war was going on in Afghanistan, it had nothing to do with Pakistan. For over twenty years Turkey has been at war with the PKK. I went to Turkey several times on vacation but knew there were problems, so I returned to Germany. I never saw any fighting in Pakistan. I was nineteen when I took my trip to Pakistan. It was probably the wrong time to go. I didn't know I would get arrested because of my skin color or because I was from Germany.

I hope you will judge me on the truth. I am not an enemy combatant. If I were, I would tell you. Enemy combatants go to jail in their own country. I would be much more comfortable in jail in my country, than I am here. I won't lie just to go to jail in my country. I want my freedom back because I am not a terrorist.

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

Personal Representative: No.

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

Recorder: Yes Sir.

Summarized Answers in Response to the Recorder

Q. You said you did not know that Seleuk Bilgin was a terrorist or involved in suicide bombings. Is that correct?

A. Yes.

Q. How long were the two of you friends?

A. We have been friends since I was sixteen. We were good friends until he got married in 2000. I never knew he experimented with bombs. He never talked about it. We just

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exercised and raised dogs together. While we were in Germany, he never had anything to do with explosives. If he had something to do with explosives after my arrest, I'm sure the German government was aware of it. The German government can verify I wasn't in Germany at the time.

Q. Jamayat Al Tabliq supported you in your travels to further your studies in Islam. Did you know Jamayat Al Tabliq supported terrorism?

A. You asked me two questions right?

Recorder: Beginning with the statement the Jamayat Al Tabliq supported you.

Detainee: The Jamayat Al Tabliq in Germany is not the same as it is in Pakistan. In Germany, they talked about Islam in Pakistan and how beautiful it was over there. They also talk about the big school. They didn't help me go to Pakistan, but they did tell me a lot about the school. So, I decided to go.

Q. While at the school, you were supported with food and lodging?

A. I said before, they didn't support me with food. I slept there only one night. They gave me dinner and breakfast. Everything else I paid for myself.

Q. Are you aware that Jamayat Al Tabliq was associated with or supported terrorism?

A. I didn't know anything about it. I am not saying they aren't terrorists, maybe they are, but I wasn't aware of it.

Summarized Answers in Response to Questions by the Tribunal Members

Q. When you were in Germany, did the Jamayat Al Tabliq have an Imam or a Sheik?

A. The Jamayat Al Tabliq had a mosque, it is called (inaudible) there is a Imam but he is not a (inaudible). He stayed in a mosque and sat with other groups. There are two different groups in the mosque, the Jamayat Al Tabliq and another group. (inaudible)

Q. Did that Imam have the authority to issue Fatwas?

A. That Imam was young. I don't know if he issued Fatwas or not. I sat with him many times at the mosque and talked, but I never saw him issue a Fatwa.

Q. So you never heard of a Fatwa for Jihad at any of the mosque you prayed at in Germany?

A. I didn't hear anything about it.

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Q. Did the Pakistanis say why they arrested you?

A. They told me at first they just wanted to check my citizenship and they asked me a few questions. They were very nice and said they just wanted to send me back to my country. They said they were going to take me to the airport, but they didn't. They put me in isolation, before turning me over to the Americans.

Q. Did you have something on you that they didn't like? Or did they just pull you off the bus because you looked German? Is that the only reason you can think of?

A. I'm not sure. I couldn't understand them. I looked Irish. They told me they wanted to see my citizenship paperwork. I was asked if I was American or British? I told them I was Turkish, but I lived in Germany. I was then asked if I had any cameras or if I was a journalist? After that, they drove me to another place. They asked me different questions than the Americans. The Americans asked me if I was a terrorist.

Q. Did they ask you if you were al Qaida or Taliban?

A. No. The first time I was asked about al Qaida or the Taliban was by the Americans, in Pakistan.

Q. How long were you in Pakistan?

A. I went there on the third of October. I was arrested during the first days of Ramadan. I know this because I was fasting. Maybe it was the third or fourth day of Ramadan.

Tribunal President: Near the middle of November, the third week.

Q. Did you have your Visa with you when the Pakistanis captured you?

A. Yes. I had it. They may have thrown it away, but I have proof. You can ask the German government. I got my Pakistani Visa from the Pakistani Embassy in Germany. I mentioned during my arrest that my Visa was still good. They said they knew it.

Q. The Pakistanis told you they knew?

A. Yes. They told me they had my passport and citizenship paperwork.

Q. As far as you know, the Pakistanis still have it?

A. Yes.

Q. When you were back in Germany, and talking about Jamayat Al Tabliq. Did you ever become a member of that organization?

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A. No, I wasn't a member. Even though I went to Pakistan, I didn't become a member. I lived with them for a few weeks in different mosques.

Q. When you got to Pakistan, they only let you stay in their school for one night?

A. It was not a school. It was a special (inaudible) protected place. When you went through the gates, the place was large. There was a mosque, a school, and a big library. I didn't study there. They just gave me a room to stay in for one night. It was a big hutta with several rooms. I went to the office to see about studying, but they told me they couldn't help me. After that, I went to the Mosque to pray. While I was there, I went to the office, the hutta and the mosque.

Q. After that, you moved on and went to different mosques around Pakistan?

A. Yes.

Q. You lived with other people and it was a communal living arrangement. One person would buy food one day and someone else would buy food the next day depending on who had money?

A. Pakistan is not an expensive country. Food is very cheap. Two or three people would buy fresh bread and other items. They would store the food until it was gone, then someone else would go buy some more. Everyone bought food.

Q. How many other guys were with you?

A. Ten, sometimes thirty. Never less than ten.

Q. You spent one night at the hotel in the school and the rest of the time

Detainee: Now I remember the name of it. Jamayat Al Tabliq School was called Mosul Center. The leaders name was Kaz A (inaudible).

Q. After that one night, the rest of the time, before being taken by the Pakistani authorities, you were moving around the country?

A. Yes, I moved to different mosques until I was arrested. I went to several mosques. I enjoyed seeing different things. I would go to the market, and I enjoyed watching what they did with the cobras. I also studied.

Q. So, you were sightseeing when you weren't studying?

A. I'm not sure what you call it. I would study some and go to the market. In Pakistan, several people who practiced Kung Fu. I saw Ninja and Kung Fu gyms. It was

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interesting because I didn't get to see those things in Germany. I was only nineteen; I couldn't sit in the mosque twenty-four hours a day.

Tribunal member: I would like to talk about Mr. Bilgin for a minute:

Q. You said you were good friends for a while until he got married. You didn't see him very often?

A. Everything about him, from his clothing to his car changed. His wife was very jealous. I didn't see much of him after his marriage because he stopped going to the gym and I started studying and working. Three times a week I worked at a factory and twice a week I went to school. I didn't have much time to go home and relax. I would go from work to the gym. When I got home, it was time to go to sleep. I had to get up early the next morning. On weekends I would go to the mosque. He didn't like to work. His wife worked.

Q. How often did you see him during that time period? Once a week, once a month, or less than that?

A. Sometimes I saw him twice a week, sometimes twice a month.

Q. Just if you ran into him at the gym or something like that?

A. Sometimes at the gym. Usually if I saw him, it was at the gym.

Q. When you decided you were going to Pakistan to study, you saw him in the mosque after you made that decision and you talked to him about it?

A. Yes, I think I saw him on a Friday prayer. He had started going to the mosque to pray. He said he also made the decision to go to Pakistan to study the Koran. He didn't tell me that day, but the next day, during the weekend.

Q. Did he actually go to Pakistan with you?

A. No, I mentioned before we had dogs. Selcuk had a lot of dogs. The dogs are only loyal to their owners. If the dogs get loose in the city, they are likely to harm someone. One day, Selcuk's dogs escaped and one of them bit somebody. In Germany, if a dog bites someone, the owner is liable. I didn't know it, but Selcuk hadn't paid anything. When we were at the Frankfurt airport, passport control, the German police checked their computers and told Selcuk he had to pay the fine. I don't remember the amount he owed. Selcuk was told he had to pay it before he could leave Germany. Selcuk asked me if I had the money to pay the bill? I told him I didn't. They kept his passport and took him to another room. The police asked me if I was going to stay with Selcuk, or if I was going to leave. I said I was leaving. That was the last time I saw Selcuk. At that time, I didn't know he was involved in terrorism.

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Q. Did you ever travel to Afghanistan when you were in Pakistan?

A. I never went to Afghanistan. I didn't even think about it. If I were going to Afghanistan, I would have got a Visa while I was in Germany. If you had my passport, you verify I had a two month Visa for Pakistan. I didn't have a Visa for Afghanistan.

Q. How long did you intend to stay in Pakistan?

A. When I left Germany, I planned on staying a month, or maybe a little longer. Since things with the school didn't work out in Pakistan, it took a bit longer. I was there for about four or five weeks. I was planning on returning to Germany because I had gotten married in Turkey, and I wanted to take my wife to Germany for another ceremony.

Tribunal President: You got there on the third of October, and you were detained approximately on the third or fourth day of Ramadan. That would have been about the twentieth of November. So, that was almost two months that you were in Pakistan. Ramadan started on the sixteenth of November that year.

A. I said before I don't remember the exact time. I may have made a mistake by about one or two weeks.

Tribunal President: It's okay, I understand.

[Tribunal President asked if the Detainee had any further evidence to present to the Tribunal]

Detainee: I want to know if I have to stay here, or if I can go home?

[The Tribunal President explained the process to the Detainee]

Detainee: If I go back home, I will prove that I am innocent. If I learn of any terrorist groups or plots, I will notify the German authorities to show them I don't support terrorism, so I can sleep well.

Q. Personal Representative, do you have any other evidence to present to this Tribunal?

A. No, Sir.

[The Tribunal was reconvened by the President to state for the record the Translator's name and to explain the Translator had taken the Oath during the recess when he took over. The Oath was taken outside of the Tribunal room, because at the time, the press and the Detainee were in the Tribunal room.]

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AUTHENTICATION

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



Col, USAF

Tribunal President

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Enclosure (3)
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700018

DETAINEE ELECTION FORM

Date: 28 Sep 04

Start Time: 0805

End Time: 0845

ISN#: 061

Personal Representative:  MAJOR, USAF
(Name/Rank)

Translator Required? IN CASE Language? TURKISH/ENGLISH

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? NO

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee wants to participate and make an oral statement.

Detainee did not request any witnesses.

Detainee speaks sufficient English but occasionally uses translator for words that he does not understand.

Personal Representative

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~~FOR OFFICIAL USE ONLY~~

Recorder Exhibit List

For

ISN [REDACTED] 0061 [REDACTED]

#	Title	Ref:	Classification
R1	Unclassified Summary		UNCLASSIFIED
R2	Habeas Court Document		UNCLASSIFIED
R3	Habeas Court Document		UNCLASSIFIED
R4	JTF-170, Detainee Addendum, 15 MAY 02		SECRET
R5	CITF Form 40, dtd 4 MAR 03	3.a.2, 3	FOUO//LES
R6	CITF Form 40, dtd 13 MAR 03	3.a.2, 3.b.2	SECRET//NOFORN
R7	CITF Form 40, dtd 10 JUL 03		FOUO//LES
R8	CITF Form 40, dtd 16 FEB 04	3.b.1	FOUO//LES
R9	Knowledgeability Brief, dtd 21 FEB 02	3.b.1	SECRET
R10	CITF Form 40, dtd 31 MAR 03		FOUO//LES
R11	CITF Form 40, dtd 15 APR 03		FOUO//LES
R12	IIR [REDACTED]	3.a.1	SECRET//NOFORN
R13	[REDACTED]		SECRET//NOFORN
R14	IIR [REDACTED]		SECRET
R15	IIR [REDACTED]		SECRET
R16	JIFSouth, MFR, dtd 24 FEB 02	3.a.2	SECRET
R17	Electronic Mail (summarizes a release memo from 2002)		SECRET
R18	CITF-CDR Memorandum, dtd 19 May 03		SECRET//NOFORN
R19	JTFGTMO-CG Memorandum, dtd 25 JUN 04		SECRET
R20	CITF-CDR Memorandum, dtd 3 Jun 04		SECRET//NOFORN
R21	JTF GTMO Baseball Card		SECRET//NOFORN
R22	IIR [REDACTED]	3.a.3	SECRET
R23	JTF-170, MFR, dtd 15 MAR 04 02		SECRET
R24	[REDACTED]		SECRET//NOFORN

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Combatant Status Review Board

TO: Personal Representative

FROM: OIC, CSRT (22 September 2004)

Subject: Summary of Evidence for Combatant Status Review Tribunal: KARNAZ, Murat

1. Under the provisions of the Secretary of the Navy Memorandum, dated 29 July 2004, *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base Cuba*, a Tribunal has been appointed to review the detainee's designation as an enemy combatant.
2. An enemy combatant has been defined as "an individual who was part of or supporting the Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who committed a belligerent act or has directly supported hostilities in aid of enemy armed forces."
3. The United States Government has previously determined that the detainee is an enemy combatant. This determination is based on information possessed by the United States that indicates that he is a member of or an ally of the Al Qaida or its network.
 - a. The detainee is a member or ally of Al Qaida or its network:
 1. The detainee admitted he traveled from Frankfurt, Germany to Kurachi, Pakistan (via plane), to Islamabad, PK (via plane), and to Lahore, PK (via bus) an unnamed village (vic of Peshawar, PK) and attempted travel back to Peshawar when he was arrested and brought into custody.
 2. The timeline associated with the detainee is as follows: Became associated with an Islamic missionary group named Jamayat Al Tabliq in June 01, US is attacked on 11 September 01, travels to PK on 3 October 01, continues travels until his capture.
 3. Detainee is a close associate with, and planned to travel to PK with, an individual who later engaged in a suicide bombing. Bilgin possibly is the Elalanutus suicide bomber.
 - b. The detainee participated in activities with a group that is part of the Al Qaida network.
 1. The detainee stated he received free food, lodging and schooling from an NGO known to support terrorist acts against the United States while traveling in PK. He was sponsored by this NGO.
 2. The detainee admitted that the school in Lahore, PK was run by this NGO, specifically the NGO President.

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EXHIBIT

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4. The detainee has the opportunity to contest his designation as an enemy combatant. The Tribunal will endeavor to arrange for the presence of any reasonably available witnesses or evidence that the detainee desires to call or introduce to prove that he is not an enemy combatant. The Tribunal President will determine the reasonable availability of evidence or witnesses.

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Page 2 of 2

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MURAT KURNAZ,)
 Detainee, Camp Delta;)
)
RABIYE KURNAZ,)
 as Next Friend of MURAT KURNAZ)
)
Petitioners,)
)
v.)
)
GEORGE W. BUSH,)
 President of the United States)
 The White House)
 1600 Pennsylvania Ave., N.W.)
 Washington, D.C. 20500;)
)
DONALD RUMSFELD,)
 Secretary, United States)
 Department of Defense)
 1000 Defense Pentagon)
 Washington, D.C. 20301-1000;)
)
ARMY BRIG. GEN. JAY HOOD,)
 Commander, Joint Task Force - GTMO)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba; and)
)
ARMY COL. NELSON J. CANNON,)
 Commander, Camp Delta,)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba)
)
Respondents.)
All sued in their official and individual)
capacities.)

AFFIDAVIT OF RABIYE KURNAZ

I, **RABIYE KURNAZ**, of Seitenweg 11, in 28309 Bremen, Germany being duly sworn, depose and state as follows:

1. I am the mother of Murat Kurnaz and a citizen of Turkey.
2. I was born on February 2, 2958 in Turkey. I married Metin Kurnaz, born on July 24, 1955. In 1971 we immigrated to Germany and we have lived for 32 years in Bremen. My husband has worked for 25 years at a factory of Daimler-Chrysler in Bremen. We have 4 children: Deriya, born on November 11, 1978, living in Bremen, married, mother of Mert, who is 4 years old Mert; Murat, born on March 19, 1982, who lived in our household till October 2001; Ali, born on March 12, 1989; and Alper, born on February 2, 1996. Due to the German laws of citizenship my children inherited the Turkish citizenship of their parents. I take care of the children and the house, and my husband is working and earns net 1.700 € per month. This is our family income.
3. Murat went to elementary school at Glockenschule in Bremen. After 4 years he changed to the Parsevalstrasse junior high school in Bremen which he completed. Murat attended a vocational school for a year and started a vocational training as a shipbuilding engineer.
4. Murat had a very normal childhood. He had German, Italian and Turkish friends. He loved his dog and dreamed of becoming a farmer one day. He was absolutely peaceful and solved all of his problems without violence. When he was 18 the Turkish Government

wanted him to serve in the Army. Murat asked to be allowed to defer military service, and this was allowed. He never got any military training.

5. All members of my family are Muslims. We practice our faith in a very tolerant way, and we have never dictated to our children the way of that they should live. Nobody wears orthodox clothes. We fully accept the German way of living.

6. In the summer of 2001 Murat had a Muslim marriage with Nagehan Yüchel in Turkey. He had planned an additional big wedding ceremony for the beginning of 2002. Negehan received a visa for her visit in Germany. However, Murat left Germany on October 3, 2001 and has never been able to come back.

7. As he had got older, like many children, Murat had become more serious in his interest in his religion, and he told us he wanted to study the Koran at a school in Pakistan. Many Muslim children do this, because it is a cheap place to do such studies, although we were worried about him going there. He left Bremen on October 3, 2001 to go to Karachi, Pakistan. He planned to come back after a few weeks' study. However, he apparently got arrested and we were later told that he was in US custody at Guantánamo.

8. Murat wrote to us more than one time saying that he never left Pakistan and did not do anything wrong. He expressed the hope that he would be released soon. The last card was written in Guantánamo in March 2002 and arrived with us in Bremen in May 2002. Since that time I have received no further correspondence from my son and I am very

concerned and worried about his mental and physical status. He has been a good son and he would not want me to be worrying like I do.

9. I have been desperate to find out what is happening to my son, and try to find out I have written several letters and got in contact with the German State Department, the Embassy of the United States of America in Berlin, the Turkish Consulate and the International Red Cross. Nobody has been able to help me, or give me concrete information. The US Ambassador suggested that I ask the Turkish State Department, but Turkey told me, regretfully, that they lacked any information, and the German State Department told me, also with regret, that it was powerless given Murat's Turkish citizenship.

10. To the best of my knowledge, Murat has been in Guantánamo since January 2002. No charges have been levelled against my son. He has apparently not been brought before a judge since he was detained.

11. In May 2002, I contacted German attorney, Bernhard DOCKE, of Bremen. He agreed to represent the interests of my son Murat as best he could from Germany.

12. I am quite certain, based on the messages I have received and from everything I know of him, that my son wants my assistance and support and would want me to take appropriate legal action on his behalf. Consequently, I wish to act as his "next friend."

13. In this capacity, I have retained and hereby request and authorize Bernhard DOCKE, attorney, or those he has associated with (including Michael RATNER, the Center for

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Constitutional Rights (CCR) in New York, and lawyers associated with CCR including Clive STAFFORD SMITH and Joe MARGUILES), to act on my own and my son's behalf and to take whatever legal steps they consider to be in our best interests.

14. I know the facts deposed to herein to be true of my own knowledge.

15. I was instructed by the authorising Notary about the legal consequences of a false affidavit. I do hereby state in lieu of oath that my statement is accurate.

Sworn by the Deponent at New York this 7 day of March, 2004

R. Kucmor

Before me:

[Signature]

BHAYANA D. KADIDAL, Esq.
Notary Public, State Of New York
No. 02KA8095022
Qualified in New York County
Commission Expires June 30, 2007

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MURAT KURNAZ,)
 Detainee, Camp Delta;)
)
RABIYE KURNAZ,)
 as Next Friend of MURAT KURNAZ)
)
)
Petitioners,)
)
v.)
)
GEORGE W. BUSH,)
 President of the United States)
 The White House)
 1600 Pennsylvania Ave., N.W.)
 Washington, D.C. 20500;)
)
DONALD RUMSFELD,)
 Secretary, United States)
 Department of Defense)
 1000 Defense Pentagon)
 Washington, D.C. 20301-1000;)
)
ARMY BRIG. GEN. JAY HOOD,)
 Commander, Joint Task Force - GTMO)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba; and)
)
ARMY COL. NELSON J. CANNON,)
 Commander, Camp Delta,)
 Guantánamo Bay Naval Station)
 Guantánamo Bay, Cuba)
)
Respondents.)
All sued in their official and individual)
capacities.)

AFFIDAVIT OF BERNHARD DOCKE

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EXHIBIT R3

I, **BERNHARD DOCKE**, of Koenenkampstr. 10, in 28213 Bremen, Germany being duly sworn, depose and state as follows:

1. I am an attorney and partner of the law firm Dr. Heinrich Hannover und Partner, Bremen. I have been retained by Rabiye Kurnaz to act on her behalf and on behalf of her son Murat Kurnaz, who is presently detained by the United States military at Camp Delta, Guantánamo Bay Naval Station, Cuba (Guantánamo). I got engaged on May 27, 2002.

Annexed hereto is a copy of my designation as attorney for Rabiye Kurnaz and her son Murat.

2. After Murat Kurnaz left Germany in October 3, 2001 to go to Pakistan, the Prosecutors Office in Bremen started an investigation to try to learn whether Mr. Kurnaz was involved in illegal activities they thought that he might have traveled to Pakistan to get in contact with the Taliban and take part in the conflict with US forces. The German General Prosecutor took over, and after months of intensive investigations he came to the conclusion that there was no indication that Mr. Kurnaz was involved or in contact with any terrorist groups. According to the Prosecutors Office Mr. Kurnaz has no prior convictions.

3. I was in correspondence and talks with the German State Department of Germany, the Turkish Embassy, the International Red Cross and the Prosecutor's Office. Nobody could give me details on the place, date, and circumstances of Mr. Kurnaz' arrest nor specific reasons for the ongoing detention, because the US authorities would provide no such information.

NOTARIAL

4. The family of Murat Kurnaz has no current information about his health. The last card they received was dated March 2002. No mail from Mr. Kurnaz has been delivered since that time. The family is very worried and is suffering under the uncertainty.

5. Apart from the information discussed above, I have received no other communication concerning Mr. Kurnaz' detention at Guantánamo.

6. Consistent with the family's wishes, I have discussed the case with Clive Stafford Smith, and authorize him, Joe Margulies, Michael Ratner, any member of the Center for Constitutional Rights, or their assigns to take whatever action they deem suitable on Mr. Kurnaz' behalf. Mr. Kurnaz' mother wishes to act as his "next friend" and has specifically authorized such an action on her son's behalf.

7. I was instructed by the authorising Notary about the legal consequences of a false affidavit. I do hereby state in lieu of oath that my statement is accurate.

Sworn by the Deponent at New York on this 7 day of March, 2004

Benjamin Allen

Before me:

[Signature]

BHAYANA D.KADIDAL, Esq.
Notary Public, State Of New York
No. 02KA8005022
Qualified in New York County
Commission Expires June 30, 20 07

NOTARIAL

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DETAINEE ADDENDUM

(U) NAME: Karnaz, Murat

Date: [REDACTED]

(S) IDENTIFICATION NUMBERS:

GTMO: [REDACTED]

ISN: [REDACTED] 61 [REDACTED]

(U) ADDENDUM INFORMATION:

Open source reporting states that subject, DOB 1982, is Turkish citizen who lived in Germany (parent still live there, possibly in Bremen) before he "fell under the sway of a radical imam" and "flew to Pakistan in a rush of religious fervor a few weeks after the September attacks", on 03 Oct 01, his parents told German reporters. "Mother says childhood interests included weightlifting and shipbuilding, but at age 17 he began going to mosque and growing a beard. The last contact was an odd call in which he said he had "found the true Islam."

(Mar 02/Source of Information: Wash Post, Miami Herald)

[REDACTED]

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EXHIBIT

R4

~~CONFIDENTIAL~~
**CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY**

1. DATE OF INVESTIGATIVE	2. PLACE Transfer Team	3. ACTIVITY NUMBER [REDACTED]
---------------------------------	----------------------------------	---

4. REMARKS

Other of: (UNK) KURNAZ, MURAT
Date of Review:
Reviewer(s): SA [REDACTED], Transfer Team

[REDACTED]-00061 [REDACTED]

Subject Interview of: MURAT KURNAZ

Date/Place: 4 Mar 03/GTMO, CUBA

Interviewers: SA [REDACTED], Ft. Belvoir - CITF - GTMO

03/04/03

MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 061 [REDACTED], 20 years of age, place of birth Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, by SA [REDACTED] Criminal Investigation Task Force (CITF) - GTMO and SA [REDACTED] Federal Bureau of Investigation (FBI). The interview was conducted in English. KURNAZ provided the following information:

KURNAZ advised he was well and agreed to answer questions. He explained that he traveled to Pakistan from Germany in order to learn more about Islam. He traveled on or around 3 Oct 01 from Frankfurt to Pakistan. He had decided to travel at that time because his new wife was not yet living with him in Germany. She was in the process of obtaining required travel documents to allow her to travel from Turkey. KURNAZ explained that it would take a long time to get the documents. KURNAZ stated that he did not worry about any war because it was in Afghanistan and he did not believe it involved Pakistan.

conducts
KURNAZ was aware of the attacks on 11 September 01. His initial belief was either an earthquake or an accident occurred. He later witnessed the footage involving the second tower and realized that it was an attack. He implied that he was saddened by the attacks and described the victims as Mothers, Fathers, sons and daughters. KURNAZ advised that the Koran not teach Muslims to take their own life or to kill others.

PKW/
KURNAZ learned Islam in Mosques in Germany but wanted to increase his knowledge. He felt the lessons in Germany were slow and wanted to learn more quickly. KURNAZ was planning to go to Pakistan for one to two months. He had planned to return after his training, to Germany, to be with his new wife. He had a plane ticket that would allow him to return to Germany before the end of Dec 01. KURNAZ was planning to return to Germany after the end of Ramadan but before Christmas.

CR
KURNAZ stayed in Pakistan longer than initially planned to learn more Islam. He advised he had trouble getting into school. He needed [REDACTED] approval to enter in the school in Lahore, PK. When KURNAZ arrived in Lahore [REDACTED] was not in the city and the school would not allow him in because they thought he might be working with the newspaper.

KURNAZ explained that [REDACTED] was trying to help him change his plane ticket so that he could leave Pakistan

5. CONDUCTED BY
[REDACTED]

6. SIGNATURE
[REDACTED]

~~THIS DOCUMENT CONTAINS NEITHER RECOMMENDATIONS NOR CONCLUSIONS OF APOSI. IT IS THE PROPERTY OF THE APOSI AND IS LOANED TO YOUR AGENCY; THIS DOCUMENT IS NOT TO BE RELEASED OUTSIDE YOUR AGENCY~~

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EXHIBIT **R5**

4. REMARKS (Continued)

from Peshawar versus where he arrived (Karachi, PK). [REDACTED] had plans to visit friends in a nearby village (KURNAZ could not recall the name of the village but described it as approximately one and one half hours bus driving time from Peshawar). KURNAZ decided to travel with [REDACTED] to the village. He did not meet [REDACTED] friends but did go to a large mosque and ate in the village. He stayed in a hotel with [REDACTED] and spent time praying. KURNAZ explained that the trip occurred during Ramadan. KURNAZ stated that he was detained while on the bus returning to Peshawar from the village. He had a small bag around his waist with his passport and visa's. KURNAZ was told he would be returned to Germany but ended up with the Americans.

KURNAZ advised that no one asked him to fight. He stated that JAMAYAT TABLIQ did not fight with guns and used words to teach instead. KURNAZ stated that he was not interested in fighting and that it was not his war. KURNAZ advised he saw, in the newspaper and on the Television, people asking for Muslims to support the Holy War for USAMA BIN LADEN. KURNAZ did not believe it was a Holy War and stated USAMA BIN LADEN started it when he attacked the US. KURNAZ emphasized that Muslims cannot kill people for any reason. KURNAZ was unable to understand the talking at the Mosques and had information translated for him. He advised if there was a person talking about joining in the war he was not made aware of it. KURNAZ advised that the only enemy he was told to fight was Satan. KURNAZ also advised he was a man and no one could tell him to do something he did not want to do.

KURNAZ explained that he was initially traveling from Germany to Pakistan with [REDACTED]. KURNAZ stated that [REDACTED] lied to him. [REDACTED] had said that his dog had bitten someone and he owed money. KURNAZ later learned that [REDACTED] had paid with bad checks.

KURNAZ advised that he did not see people with guns at the mosques in PK. He did see many Police and Military with guns. KURNAZ denied that the JAMAYAT TABLIQ was a Terrorist group.

KURNAZ stated he was not upset with the Americans and had American friends. He does not believe it is the Americans fault that he is in GTMO. KURNAZ blames the Pakistani's who he believes sold him for money to the Americans. KURNAZ advised some of the guards are not so good. He believes that everyone is angry inside and outside (of the cells) because they are away from their families.

KURNAZ advised that if he were released he would first bring his wife to Germany and second buy a Mercedes motorcycle, be with his family and get a job.

KURNAZ agreed to take a Polygraph test.

~~SECRET~~
CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY

1. DATE OF INVESTIGATIVE 13 Mar 03	2. PLACE GTMO, Cuba	3. ACTIVITY NUMBER [REDACTED]
---------------------------------------	------------------------	----------------------------------

4. REMARKS

Subject Interview of: (UNK) KURNAZ, MURAT

Date/Place: 13 Mar 03/GTMO, Cuba

Interviewers: SA [REDACTED], Ft. Belvoir - CITF - GITMO

MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 061 [REDACTED], 20 years of age, place of birth Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, by SA [REDACTED] Criminal Investigation Task Force (CITF) - GTMO and SA [REDACTED] Federal Bureau of Investigation (FBI). The interview was conducted in English. KURNAZ provided the following information:

KURNAZ advised he was well and agreed to answer questions.

KURNAZ advised that the name KUNN that appeared throughout his file was a mistake made at Camp Delta and not an alias. He stated that the wristband he was initially provided when he arrived at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, had the name KUNN on it. KURNAZ advised that he was reluctant to correct the information on the wristband because he believed it was better that the other detainees not be aware of his real name. KURNAZ advised that he knew nobody by the name KUNN and had never used this name.

KURNAZ related that his Father was a Muslim. KURNAZ recalled when he was very young he would go to Friday worship with his Father. He advised that as he grew older he had grown further from the religion until approximately one year prior to his trip to Pakistan when he once again started to practice Islam.

KURNAZ confirmed that there were approximately 4-5 individuals from the JAMAYAT TABLIGH that visited his Mosque every six months. He advised that these individuals spoke of Pakistan. KURNAZ stated that he never told these individuals about his intentions to travel to Pakistan. KURNAZ related that the only person he told was [REDACTED] KURNAZ stated that [REDACTED] had not met with the JAMAYAT TABLIGH as much as he had and had not told them about the trip.

KURNAZ advised that there were individuals from JAMAYAT TABLIGH that spoke German and one who spoke Turkish. KURNAZ gave his name, address and telephone number to the members of JAMAYAT TABLIGH so they could inform him of meetings. KURNAZ did not recall ever receiving any telephone calls from them; however was told in person about one meeting that he attended. KURNAZ advised that the meeting was held at a Mosque in a neighboring city (he could not recall the name of the city but it was 30 minutes via train from Bremen, Germany).

KURNAZ denied that he ever heard members of the JAMAYAT TABLIGH attempting to recruit anyone to fight in a Jihad. KURNAZ also denied ever being asked by the JAMAYAT TABLIGH about his ability to fight (KURNAZ advised that he was a boxer) or any other work skills, military training, or language capabilities.

KURNAZ appeared not to understand the word fatal. Upon explanation, KURNAZ compared the word to the Turkish word yaaz (possible variation vaaz). He explained that the word yaaz was used to provide reason, based on Islamic history, why people should follow the beliefs of Islam. KURNAZ advised that the Imam at his Mosque had used the word yaaz.

5. CONDUCTED BY
[REDACTED]

6. SIGNATURE
[REDACTED]

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EXHIBIT R6

4. REMARKS (Continued)

KURNAZ advised that the Mosque in Bremen, Germany, that he attended, was mostly visited by Turkish Muslims. KURNAZ recalled the Imam stated that killing women, children and oneself was an act of "terrorism" and against Islam. KURNAZ further advised that he had listened to the people from the Christian faith and Jewish faith that would come to the "big Mosque" in Bremen and they discussed the same belief.

KURNAZ denied being asked to support the conflict between the Taliban and the Northern Alliance. KURNAZ denied being asked to support the conflict in Chechnya. KURNAZ did not appear to have any knowledge of these conflicts.

KURNAZ advised that he provided [redacted] the money (approximately 1100 German marks) for his roundtrip ticket to Pakistan. KURNAZ stated he had money in the bank that he received from his job at the factory where he worked three days a week. KURNAZ advised that he had no bills because he lived at his Fathers home.

KURNAZ advised that the flight from Frankfurt, Germany to Karachi, Pakistan made one stop approximately 30 minutes outside of Frankfurt. KURNAZ stated he did not remember where the stop was and did not get off the plane.

KURNAZ advised that he met [redacted] on the plane to Pakistan. He stated [redacted] was from Pakistan but spoke German. KURNAZ confirmed that he obtained [redacted] telephone. KURNAZ advised that attempted unsuccessfully to contact [redacted] while in Pakistan.

KURNAZ stated he was nervous about his trip and his inability to speak the language in Pakistan; however, once he arrived he found many people spoke English or German and he did not have any problems.

KURNAZ advised that he could not recall the name of the guesthouse in Islamabad. He stated that it was near the airport in a neighborhood with very nice houses. KURNAZ also advised he did remember the name of the person who ran the guesthouse. KURNAZ advised that he went to the shops and the Mosque in Islamabad.

KURNAZ advised that the school in Lahore, PK, was called Jamayat of Islam and belonged to the JAMAYAT TABLIGH. He advised that the president of the JAMAYAT TABLIGH ran the school. KURNAZ was unable to recall the name of the guesthouses or owners in Lahore, PK.

While in Lahore, PK, KURNAZ attempted to contact his family from a place he compared to the German Post (Post Office). KURNAZ recalled he was unable to reach his family but made contact with [redacted] residence. KURNAZ stated [redacted] wife answered his call but did not want to speak with him or allow him to speak with [redacted] and told KURNAZ to call his family before hanging up abruptly.

KURNAZ advised he flew from Karachi to Islamabad. He paid for the ticket with money he had with him. KURNAZ stated he took a bus from Karachi to Peshawar. KURNAZ advised he did not travel to Afghanistan.

KURNAZ advised that he has never traveled to the United States; however, he has seen pictures and thought it looked nice. KURNAZ advised that he dated a girl named [redacted] from Bremen, Germany, who had been on holiday in the US and showed him the pictures of her trip.

KURNAZ advised he has only visited Turkey and Pakistan. He explained that he drove to Turkey and therefore, he traveled through several countries to include Yugoslavia, Bulgaria but had not stopped to visit.

KURNAZ again advised he was willing to take a polygraph examination. KURNAZ stated that the reason for his travel to Pakistan was not based on any criminal activity.

KURNAZ advised he was concerned that if he were released from Camp Delta, US Naval Base, Guantanamo Bay, Cuba, he would be sent to Turkey. KURNAZ explained that returning to Turkey caused him concern because he was due to serve in the Turkish Military. He explained that he had been released from obligation to serve based on his work status in Germany.



OK Name Note

JT

Travel

4. REMARKS (Continued)
the Turkish Military.

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700036

**CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY**

1. DATE OF INVESTIGATIVE 10 Jul 03	2. PLACE GTMO, Cuba	3. ACTIVITY NUMBER [REDACTED]
--	-------------------------------	---

4. REMARKS

Subject Interview of: (UNK) KURNAZ, MURAT

Date/Place: 10 Jul 03/GTMO, Cuba

Interviewers: SA [REDACTED] CITF - GTMO

On 10 Jul 03, MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 061 [REDACTED] from Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, by SA [REDACTED], Air Force office of Special Investigations (AFOSI) and SA [REDACTED] Army Criminal Investigation Division (CID). The interview was conducted in English and German. KURNAZ provided the following information:

KURNAZ advised that he was well.

KURNAZ reiterated previously provided information.

KURNAZ stated that he did not know [REDACTED] well. He claimed that he could not recall [REDACTED] name. KURNAZ advised that he only spoke with [REDACTED] on a few occasions. He explained that their conversations were limited to polite greetings. KURNAZ denied that he ever discussed his interest in traveling to Pakistan with [REDACTED]

KURNAZ advised that the thought of someone claiming that KURNAZ wanted to go fight the Americans "made him feel sick." He explained that he never had a desire to fight anyone. He claimed that if he were going to fight the infidels he would have to start with his own family. He explained that his Mother and Father do not pray as required in Islam. He further claimed that there were many Christians in Germany and if he were against them he had the opportunity to fight them at home. KURNAZ claimed that he was not put on this earth to punish.

KURNAZ explained that the other detainees make fun of him and call him a Sufi. KURNAZ advised that if enjoying Islamic music and dance makes him a SUFI then he is. He explained that some of the other detainees worship Islam differently than he does. He explained that he believes with his heart that God knows all even the small things hidden deep inside. KURNAZ explained that he has a spiritual inner belief versus the outer belief of most Muslims.

KURNAZ adamantly denied that he had planned to fight anyone during his trip to Pakistan. He advised that his sole reason for travel was to learn more about the Koran.

KURNAZ clarified that he worked for a company named [REDACTED]. He explained that he was a welding apprentice. He stated that he never worked on boats and there were no boats at his place of employment. KURNAZ joked that if his company made boat "they would probably sink." He explained that he made forms for concrete blocks. He described that the work involved intricate detail in order to create the exact form required.

KURNAZ denied that he had ever received training on boat engines. He claimed that he was not even knowledgeable about automobile engines never less boat engines.

KURNAZ denied that he would ever fight Americans. He again claimed that if he were to fight infidels he would need to start with his own family.

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4. REMARKS (Continued)

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FOR FILE

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**CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY**

1. DATE OF INVESTIGATIVE ACTIVITY 16 Feb 04	2. PLACE Camp Delta - Yellow, Guantanamo Bay, Cuba	3. ACTIVITY NUMBER [REDACTED]
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4. REMARKS

Subject Interview of: (UNK) KURNAZ, MURAT

Date/Place: 16 Feb 04/Camp Delta - Yellow, Guantanamo Bay, Cuba

On 16 Feb 04 SA [REDACTED], USACIDC, and SA [REDACTED], AFOSI, interviewed Murat KARNAZ, ISN [REDACTED] 61 [REDACTED], at Camp Delta, Guantanamo Bay, Cuba. The interview was conducted in the English language.

KARNAZ was questioned relating to information he previously provided to interrogators. KARNAZ related he would be willing to answer all questions and remain cooperative. The following questions were asked to KARNAZ:

Q. Did you purchase your plane ticket to Pakistan? Various information in the case file relates either you or [REDACTED] (NFI), purchased the ticket.

A. KARNAZ related he gave [REDACTED] approximately DM 1000.00 for the ticket. KARNAZ stated he did not want to purchase the ticket himself, due to the travel agency being inside a mall, in Bremen, GM, which his parents frequently visited. KARNAZ related the ticket [REDACTED] purchased for him was a round trip from Frankfurt, GM to Pakistan, with a return flight to Frankfurt, GM. KARNAZ denied receiving any money from the Jamayat Al Tabliq for the ticket. KARNAZ stated the money he used for the ticket was money he had saved from his part-time job as a student at a ship construction mechanic school in Bremen, GM.

Q. What is the [REDACTED]?

A. KARNAZ could not provide a definitive answer for the [REDACTED]. KARNAZ related it could possibly be an organization within the Kuba Mosque, Bremen, GM. KARNAZ stated numerous federations inside Germany help maintain and fund various mosques.

Q. What is the [REDACTED]?

A. KARNAZ stated the [REDACTED] is one of the federations inside Germany, which pays for the upkeep and maintenance of mosques.

Q. What are [REDACTED]?

A. KARNAZ stated [REDACTED] are a group of Turkish citizens in Turkey and Germany, which assist both governments against possible terrorist organizations. KARNAZ related [REDACTED] have members inside the Turkish government to help locate and track terrorist activities. KARNAZ related he was not a member of [REDACTED] however, he did participate in activities with members in Germany.

Q. What is [REDACTED]?

A. KARNAZ related the [REDACTED] is a political party in Germany that assists in the building of mosques.

Q. Did you say anything to [REDACTED] that would make him think you were going to Afghanistan to fight Americans?

A. KARNAZ denied telling anyone he was going to Afghanistan to fight Americans. KARNAZ stated he only met [REDACTED] one time at [REDACTED] approximately two years prior to him going to Pakistan (possibly in 1999-2000). KARNAZ related when he met [REDACTED] he was not planning to go to Pakistan at the time.

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EXHIBIT **R8**

4. REMARKS (Continued)

KARNAZ denied telling anyone he was planning to go to Afghanistan to fight Americans.

Q. Do you have any affiliations with the Jamayat Al Tabliq?

A. KARNAZ denied being a member of JT. KARNAZ related he met several members of the JT while they were teaching at various mosques in Bremen, GM. The members of JT were the individuals who told KARNAZ he should go to Pakistan to study Islam. KARNAZ denied the JT funded his trip to Pakistan. While in Pakistan, KARNAZ stated he received sleeping accommodations and food from the JT; however, they did not ask him to enter Afghanistan to fight.

Q. What was your knowledge of the attacks on 9/11?

A. KARNAZ related the attacks of 9/11 were not nice. It was not his religion that did this; his religion does not like this behavior. 9/11 was done by a group and against his religion. Everything they did was wrong. Islam is a peaceful religion. KARNAZ stated he was in Germany during the 9/11 attacks. His mother first told him it was an earthquake. KARNAZ related after the 9/11 attacks, when he would go to mosque, the Imam would speak about the attacks not being a war against Christians, and the Muslim religion did not condone the attacks.

(Agent's comment: While discussing the attacks of 9/11, KARNAZ did not display a strong knowledge of the incident. KARNAZ did not know the number of hijackers or the number of planes used.)

Q. Why did you decide to remain in Pakistan after not being admitted to the Muslim school in Lahore, Pakistan?

A. KARNAZ stated after not being admitted to the school, he returned to Karachi. He then went to the airport and asked the information booth if he could remain in Pakistan without having to purchase another ticket. KARNAZ was informed the ticket was still valid and he could remain in Pakistan. KARNAZ related if he would have been told the ticket would not be valid at a later date, he would have returned to Germany. KARNAZ stated he did not have enough money to buy another ticket; however, he did have enough money to stay in Pakistan a short while longer. KARNAZ related he did not have to buy food or pay for a hotel, as the JT would provide whatever he needed. KARNAZ denied anyone asked him to stay longer, he made the decision himself to stay and attempt to study Islam longer.

Q. What were your intentions for going to Pakistan?

A. KARNAZ related he went to Pakistan to learn more about his religion. He could not read the Koran and did not know anything. KARNAZ stated he knew the JT was from Pakistan and would provide him with schooling, food and shelter. KARNAZ stated he could not afford to attend Islamic schooling in Germany or Saudi Arabia; otherwise he would have gone there. KARNAZ again denied anyone asked him to go to Pakistan.

Q. Were you planning on going to Afghanistan?

A. KARNAZ denied any intentions on going to Afghanistan. KARNAZ stated he had no reason to enter Afghanistan, as he was not going to be involved with the war.

Q. Did you observe or hear of terrorist activities in the mosques within Pakistan?

A. KARNAZ denied seeing or hearing of any terrorist activities in Pakistan. KARNAZ related he spent most of his time inside the mosques and discussing current events or the outside world was not practiced inside the mosques.

Q. What dealings did you ever have in Hamburg, GM, particularly with mosques?

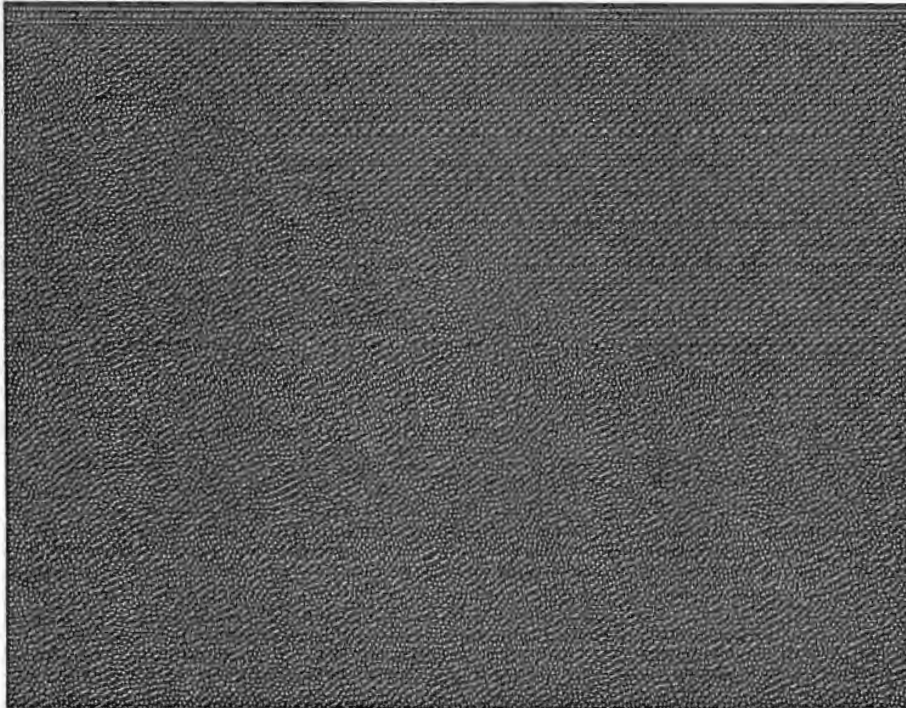
A. KARNAZ stated he has only been to Hamburg twice, each time for a wedding when he was approximately 12-15 years old. KARNAZ stated he never attended any mosques in Hamburg. When questioned about Mohammed ATTA, KARNAZ related he only heard the name after 9/11 in the newspapers and on television.

Q. Did you receive any military training in Pakistan?

A. KARNAZ related he received no military training while in Pakistan. He would only exercise by himself. KARNAZ stated if he wanted to receive military training, he would have joined the Turkish military.

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PAGE 02



SUBJ/KNICKER KNOWLEDGEAGILITY BRIEF - DRAGON TOWER (U)//
NARR/

~~SECRET~~
SERIAL: (U)



TEXT: (U)

1. (S) PERSONAL DATA:

1A. NAME: MURAT ((KARNAZ))



PAGE 03 RUCOCDE0012 S E ~~SECRET~~

- 1E. [REDACTED]
- 1F. CITIZEN: TU.
- 1G. BIRTCITY: BREMEN.
- 1H. BIRTCTRY: GM.
- 1I. BIRTDY: 19820319.

~~SECRET~~

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EXHIBIT R9

~~SECRET~~

1J.
1K.
1L.
1M.
1N.

10: LANGCOMP: TY5; GM4; EN3.

2. ~~(S)~~ EDUCATION--NONE.

3. ~~(S)~~ EMPLOYMENT--99-01; [REDACTED]; BREMEN; GM;
APPRENTICE TO SHIP ENGINE MECHANIC.

4. ~~(S)~~ MIL SERVICE--NONE.

5. ~~(S)~~ SPECIFIC KNOWLEDGEABILITY:

[REDACTED]

PAGE 04

[REDACTED]

6. ~~(S)~~ COLLECTOR'S COMMENTS:

[REDACTED]

6B. ~~(S)~~ ON THIS JIFSOUTH KB, SOURCE NAME DEVIATES FROM THE NAME THAT

PAGE 05 RUCOGDE0012 ~~SECRET~~

APPEARS ON DOCUMENTS FORWARDED TO JIFSOUTH FROM AFGHANISTAN. LINE 1A ON THE JIFSOUTH KB REFLECTS THE NAME AS GIVEN BY THE DETAINEE TO THE INTERVIEWER AT GUANTANAMO DETENTION FACILITY. THE NAME THAT APPEARED ON PREVIOUS DOCUMENTS IS MURAT ((KUNN)). THERE IS ALSO AN ERRONEOUS COUNTRY DESIGNATOR IN THE ISN IN BLOCK 1C. ABOVE. SOURCE CLAIMS TURKISH CITIZENSHIP, WHICH SHOULD HAVE BEEN A --TU--, BUT IS A --TY--; JIFSOUTH CANNOT CHANGE THE ISN.

6C. ~~(S)~~ SOURCE DENIED HAVING ANY KNOWLEDGE OF THE ATTACKS IN THE U.S. PRIOR TO THEIR EXECUTION ON SEPTEMBER 11TH, AND ALSO DENIED KNOWLEDGE OF ANY RUMORS OR PLANS OF FUTURE ATTACKS ON THE U.S. OR U.S. INTERESTS. SOURCE WAS QUERIED REGARDING ANY KNOWLEDGE OR PLANNING OF INTERNAL UPRISINGS AT THE GUANTANAMO DETENTION FACILITY, WITH NEGATIVE RESULTS.

[REDACTED]

700042

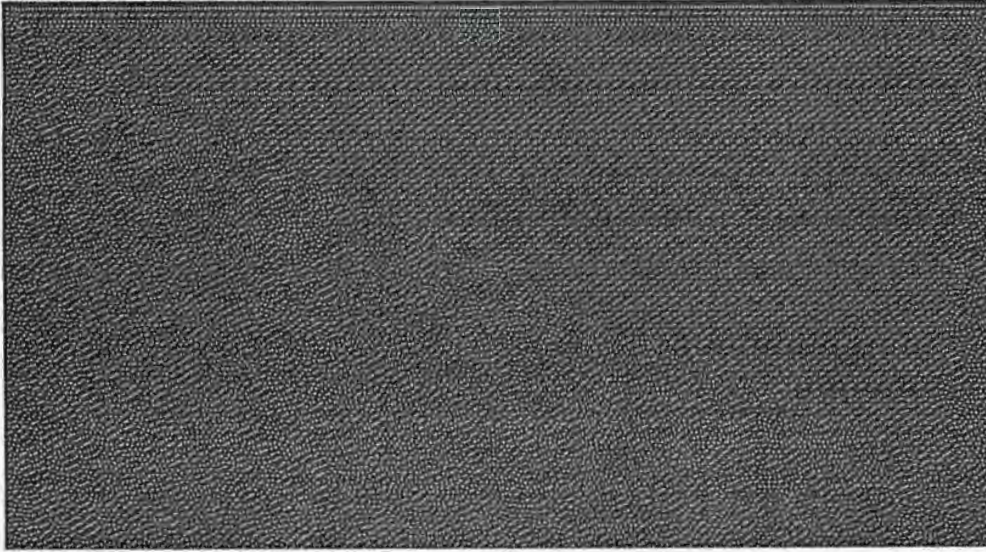
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Considerations*

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~~Confidential~~
CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY

1. DATE OF INVESTIGATIVE ACTIVITY 31 Mar 03	2. PLACE GTMO, Cuba	3. ACTIVITY NUMBER [REDACTED]
--	------------------------	----------------------------------

4. REMARKS

Subject Interview of: (UNK) KURNAZ, MURAT

Date/Place: 31 Mar 03/GTMO, Cuba

Interviewers: SA [REDACTED], Ft. Belvoir - CITF - GITMO

MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 06 [REDACTED], 20 years of age, place of birth Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, by SA [REDACTED], Criminal Investigation Task Force (CITF) - GTMO and SA [REDACTED], Federal Bureau of Investigation (FBI). The interview was conducted in English. KURNAZ provided the following information:

[REDACTED]

KURNAZ stated during the course of the interview that he was not a terrorist. He also claimed to have no association to AL QAEDA or to USAMA BIN LADEN. KURNAZ adamantly refused to answer any other questions.

[REDACTED] KURNAZ advised he would answer questions but not during this interview.

After approximately one hour the interview was terminated.

5. CONDUCTED BY
[REDACTED]

6. [REDACTED]

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**CRIMINAL INVESTIGATIVE TASK FORCE (CITF)
REPORT OF INVESTIGATIVE ACTIVITY**

1. DATE OF INVESTIGATIVE ACTIVITY 15 Apr 03	2. PLACE GTMO, Cuba	3. ACTIVITY NUMBER [REDACTED]
--	------------------------	----------------------------------

4. REMARKS

Subject Interview of: (UNK) KURNAZ, MURAT

Date/Place: 15 Apr 03/GTMO, Cuba

Interviewers: SA [REDACTED], FI, Belvoir - CITF - GITMO

MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 061 [REDACTED], 21 years of age, place of birth Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, by SA [REDACTED], Criminal Investigation Task Force (CITF) - GTMO and SA [REDACTED] Federal Bureau of Investigation (FBI). The interview was conducted in English.

[REDACTED]

KURNAZ explained that he traveled via a local train to the meeting held by the Jamaat Tabligh (JT). He claimed that the train made many stops because it was local and not a long distance commuter train. He further explained that due to the many stops the trip to the unidentified city was approximately 15 to 30 minutes long. KURNAZ could not recall the name of the city; however, he believed if he saw a map he could point it out. KURNAZ stated that the meeting was not held in Hamburg, Germany.

KURNAZ advised that the JT meeting was held in what appeared to be a modern house. He described the building as having one big room, one small room, and a kitchen. He stated the big room could possibly hold one hundred people. KURNAZ recalled that the when he looked out the back of the house he could see a river (NFI). KURNAZ believed that one of the JT members had the key and opened the building for the individuals from Bremen, Germany (GE). KURNAZ explained that there were approximately 10-12 individuals that traveled from Bremen, GE, to the house. KURNAZ further related that several people traveled via train and a few drove in automobiles. KURNAZ stated that he and the others stayed one and one half days at the house. He described the activities they conducted as cooking, eating, praying and talking about Islam. He compared the events to a camping trip. He stated that during the night they slept on the floor in the big room. KURNAZ did not believe that the Imam from his mosque in Bremen, GE, attended this meeting.

KURNAZ denied that the JT discussed recruitment for fighting while he was present. He further described the JT members as very nice people.

KURNAZ explained that when he traveled to Pakistan he did not receive any weapons training nor was he provided a weapon. KURNAZ advised that he had a gun in Germany that he used on New Years. KURNAZ explained that the gun he owned did not shoot bullets, but did shoot fireworks.

5. CONDUCTED BY [REDACTED]	6. [REDACTED]
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~~SECRET NOFORN~~

SERIAL: (U) IIR [REDACTED]

COUNTRY: (U) [REDACTED]

IPSP: (U) [REDACTED]

SUBJ: IIR [REDACTED]

~~WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE. REPORT CLASSIFIED SECRET NOFORN.~~

DEPARTMENT OF DEFENSE

DOI: (U) [REDACTED]

REQS: (U) [REDACTED]

SOURCE: (S/NF) // ISN [REDACTED] 061 [REDACTED] // IS A 19-YR-OLD WHO CLAIMS TURKISH CITIZENSHIP. [REDACTED]

SUMMARY: (S/NF) [REDACTED]

[REDACTED] THIS INFORMATION WAS ACQUIRED DURING FBI INTERVIEWS. THIS IIR WAS DERIVED FROM THE FBI FD-302, FILE NUMBER [REDACTED] IN GUANTANAMO BAY, CUBA.

TEXT: 1. (U) MURAT KURNAZ // [REDACTED] 061 [REDACTED] // WAS INTERVIEWED AT CAMP DELTA, GUANTANAMO BAY, CUBA, BY A SPECIAL AGENT OF THE AIR FORCE AND SPECIAL AGENT OF THE FBI. AFTER BEING NOTIFIED OF THE IDENTITY OF THE INTERVIEWING AGENTS, KURNAZ PROVIDED THE FOLLOWING INFORMATION:

2. (U) KURNAZ ADVISED HE WAS WELL AND AGREED TO ANSWER QUESTIONS. HE EXPLAINED THAT HE TRAVELED TO PAKISTAN FROM GERMANY IN ORDER TO LEARN MORE ABOUT ISLAM. HE TRAVELED ON OR AROUND 20011003 FROM FRANKFURT TO PAKISTAN. HE HAD DECIDED TO TRAVEL AT THAT TIME BECAUSE HIS NEW WIFE WAS NOT YET LIVING WITH HIM IN GERMANY. SHE WAS IN THE PROCESS OF OBTAINING REQUIRED TRAVEL DOCUMENTS TO ALLOW HER TO TRAVEL FROM TURKEY. KURNAZ EXPLAINED THAT IT WOULD TAKE A LONG TIME TO

~~SECRET NOFORN~~

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EXHIBIT R12

~~SECRET~~

GET THE DOCUMENTS. KURNAZ STATED THAT HE DID NOT WORRY ABOUT ANY WAR BECAUSE IT WAS IN AFGHANISTAN AND HE DID NOT BELIEVE IT INVOLVED PAKISTAN.

3. (U) KURNAZ WAS AWARE OF THE ATTACKS ON 20010911. HIS INITIAL BELIEF WAS EITHER AN EARTHQUAKE OR AN ACCIDENT OCCURRED. HE LATER WITNESSED THE FOOTAGE INVOLVING THE SECOND TOWER AND REALIZED THAT IT WAS AN ATTACK. HE IMPLIED THAT HE WAS SADDENED BY THE ATTACKS AND DESCRIBED THE VICTIMS AS MOTHERS, FATHERS, SONS AND DAUGHTERS. KURNAZ ADVISED THAT THE QUAR'AN DOES NOT TEACH MUSLIMS TO TAKE THEIR OWN LIFE OR TO KILL OTHERS.

4. (U) KURNAZ LEARNED ISLAM IN MOSQUES IN GERMANY BUT WANTED TO INCREASE HIS KNOWLEDGE. HE FELT THE LESSONS IN GERMANY WERE SLOW AND WANTED TO LEARN MORE QUICKLY. KURNAZ WAS PLANNING TO GO TO PAKISTAN FOR ONE TO TWO MONTHS. HE HAD PLANNED TO RETURN AFTER HIS TRAINING, TO GERMANY, TO BE WITH HIS NEW WIFE. HE HAD A PLANE TICKET THAT WOULD ALLOW HIM TO RETURN TO GERMANY BEFORE THE END OF DECEMBER 2001. KURNAZ WAS PLANNING TO RETURN TO GERMANY AFTER THE END OF RAMADAN BUT BEFORE CHRISTMAS.

5. (U) KURNAZ STAYED IN PAKISTAN LONGER THAN INITIALLY PLANNED TO LEARN MORE ISLAM. HE ADVISED HE HAD TROUBLE GETTING INTO SCHOOL. HE NEEDED [REDACTED] APPROVAL TO ENTER IN THE SCHOOL IN LAHORE, PAKISTAN. [REDACTED]

[REDACTED] WHEN KURNAZ ARRIVED IN LAHORE, [REDACTED] WAS NOT IN THE CITY, KURNAZ NEVER MET WITH [REDACTED] THE PEOPLE AT THE SCHOOL WOULD NOT ALLOW HIM IN BECAUSE THEY THOUGHT HE MIGHT BE WORKING WITH THE PRESS.

6. (U) KURNAZ EXPLAINED THAT [REDACTED] WAS TRYING TO HELP HIM CHANGE HIS PLANE TICKET SO THAT HE COULD LEAVE PAKISTAN FROM PESHAWAR VERSUS WHERE HE ARRIVED (KARACHI, PAKISTAN).

[REDACTED] HAD PLANS TO VISIT FRIENDS IN A NEARBY VILLAGE (KURNAZ COULD NOT RECALL THE NAME OF THE VILLAGE BUT DESCRIBED IT AS APPROXIMATELY ONE AND ONE HALF HOURS BUS DRIVING TIME FROM PESHAWAR). KURNAZ DECIDED TO TRAVEL WITH MOHAMMED TO THE VILLAGE. HE DID NOT MEET [REDACTED] FRIENDS BUT DID GO TO A LARGE MOSQUE AND ATE IN THE VILLAGE. HE STAYED IN A HOTEL WITH MOHAMMED AND SPENT TIME PRAYING. KURNAZ EXPLAINED THAT THE TRIP OCCURRED DURING RAMADAN. KURNAZ STATED THAT HE WAS DETAINED WHILE ON THE BUS RETURNING TO PESHAWAR FROM THE VILLAGE. HE HAD A SMALL BAG AROUND HIS WAIST WITH HIS PASSPORT AND VISA'S. KURNAZ WAS TOLD HE WOULD BE RETURNED TO GERMANY BUT ENDED UP WITH THE AMERICANS.

7. (U) KURNAZ ADVISED THAT NO ONE ASKED HIM TO FIGHT. HE STATED THAT [REDACTED] DID NOT FIGHT WITH GUNS AND USED WORDS TO TEACH INSTEAD. KURNAZ STATED THAT HE WAS NOT INTERESTED IN

~~SECRET~~

FIGHTING AND THAT IT WAS NOT HIS WAR. KURNAZ ADVISED HE SAW, IN THE NEWSPAPER AND ON THE TELEVISION, PEOPLE ASKING FOR MUSLIMS TO SUPPORT THE HOLY WAR FOR USAMA BIN LADEN. KURNAZ DID NOT BELIEVE IT WAS A HOLY WAR AND STATED USAMA BIN LADEN STARTED IT WHEN HE ATTACKED THE UNITED STATES. KURNAZ EMPHASIZED THAT MUSLIMS CANNOT KILL PEOPLE FOR ANY REASON. KURNAZ WAS UNABLE TO UNDERSTAND THE TALKING AT THE MOSQUES AND HAD [REDACTED] INFORMATION TRANSLATED FOR HIM. HE ADVISED IF THERE WAS A PERSON TALKING ABOUT JOINING IN THE WAR HE WAS NOT MADE AWARE OF IT. KURNAZ ADVISED THAT THE ONLY ENEMY HE WAS TOLD TO FIGHT WAS SATAN. KURNAZ ALSO ADVISED HE WAS A MAN AND NO ONE COULD TELL HIM TO DO SOMETHING HE DID NOT WANT TO DO.

8. (U) KURNAZ EXPLAINED THAT HE WAS INITIALLY TRAVELING FROM GERMANY TO PAKISTAN WITH [REDACTED]. KURNAZ STATED THAT [REDACTED] LIED TO HIM. BILGUN HAD SAID THAT HIS DOG HAD BITTEN SOMEONE AND HE OWED MONEY. KURNAZ LATER LEARNED THAT [REDACTED] HAD PAID WITH BAD CHECKS.

9. (U) KURNAZ ADVISED THAT HE DID NOT SEE PEOPLE WITH GUNS AT THE MOSQUES IN PAKISTAN. HE DID SEE MANY POLICE AND MILITARY WITH GUNS. KURNAZ DENIED THAT THE JAMAYAT TABLIQ WAS A TERRORIST GROUP.

10. [REDACTED]

11. (U) KURNAZ STATED HE WAS NOT UPSET WITH THE AMERICANS AND HAD AMERICAN FRIENDS. HE DOES NOT BELIEVE IT IS THE AMERICANS FAULT THAT HE IS IN THE DETENTION FACILITY AT GUANTANAMO BAY, CUBA. KURNAZ BLAMES THE PAKISTANI'S WHO HE BELIEVES SOLD HIM THE AMERICANS FOR MONEY. KURNAZ ADVISED SOME OF THE GUARDS ARE NOT VERY GOOD AND TREAT THE DETAINEES POORLY. HE BELIEVES THAT EVERYONE IS ANGRY INSIDE AND OUTSIDE (OF THE CELLS) BECAUSE THEY ARE AWAY FROM THEIR FAMILIES.

12. (U) KURNAZ ADVISED THAT IF HE WERE RELEASED HE WOULD BRING HIS WIFE TO GERMANY. HE ALSO PLANS TO GET A JOB A BUY A MOTORCYCLE. KURNAZ ALSO EXPRESSED DESIRE TO SPEND TIME WITH HIS FAMILY.

13. (U) KURNAZ AGREED TO TAKE A POLYGRAPH TEST.

~~SECRET~~

~~SECRET~~ / *SECRET*

COMMENTS: 1. (S//~~TF~~) THIS IIR WAS PUBLISHED WITH THE CONCURRENCE OF THE FBI REPRESENTATIVES IN GUANTANAMO BAY, CUBA.

[REDACTED]

3. (U)

4. (U) REFER TO IIR [REDACTED]

[REDACTED]

4.

[REDACTED]

COLL: (U)

INSTR: (U)

PREP: (U)

ACQ: (U) GUANTANAMO BAY, CU

DISSEM: (U) FIELD -- NONE.

~~WARNING: (U) REPORT CLASSIFIED SECRET//NOFORN.~~

DRV FROM: [REDACTED]

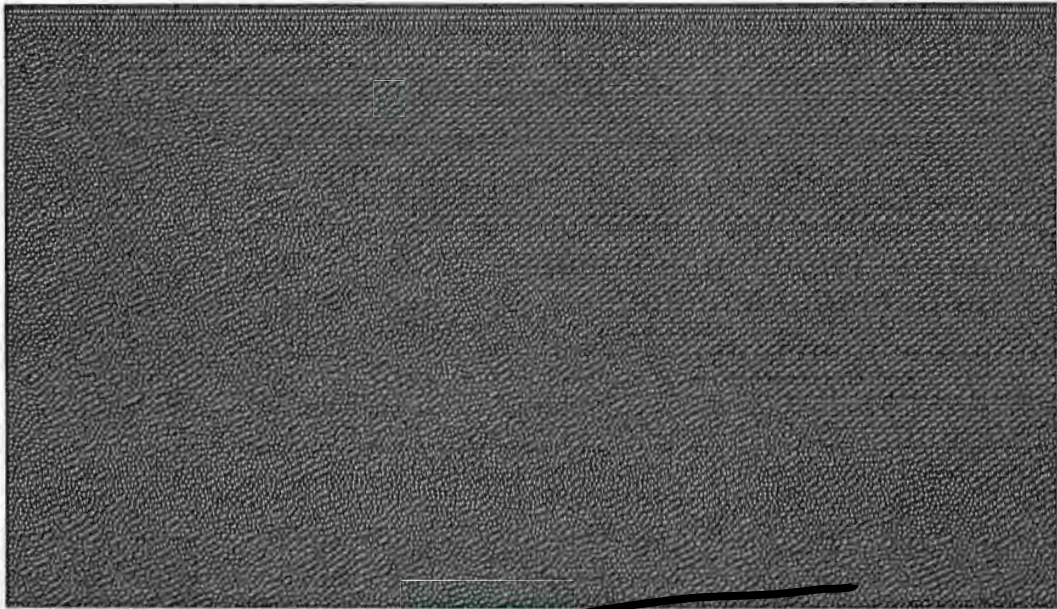
DECL: [REDACTED]

~~SECRET~~ / *SECRET*

Exhibit R 13 was redacted in full

700050-057

~~SECRET~~

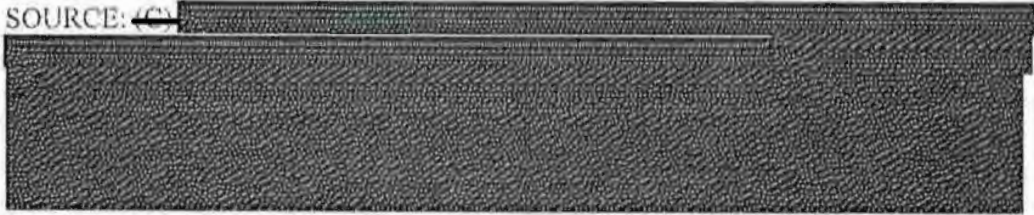


WARNING: (U) THIS IS AN INFORMATION REPORT, NOT FINALLY
EVALUATED
INTELLIGENCE REPORT CLASSIFIED ~~SECRET~~

DEPARTMENT OF DEFENSE



SOURCE: (C)



2. (S) DETAINEE INFORMATION.



~~SECRET~~

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EXHIBIT R14

~~SECRET~~

[REDACTED]
B. ~~(S)~~ MURAT ((KURNAZ)), DETAINEE NUMBER [REDACTED]
TURKISH NATIONAL RESIDING IN BREMEN, GM.

[REDACTED] KURNAZ'S DOB IS 19 MARCH 1982 [REDACTED]

KURNAZ ALSO HAD THE FOLLOWING TELEPHONE NUMBERS AND NAMES
ON HIS POSSESSION--

[REDACTED]

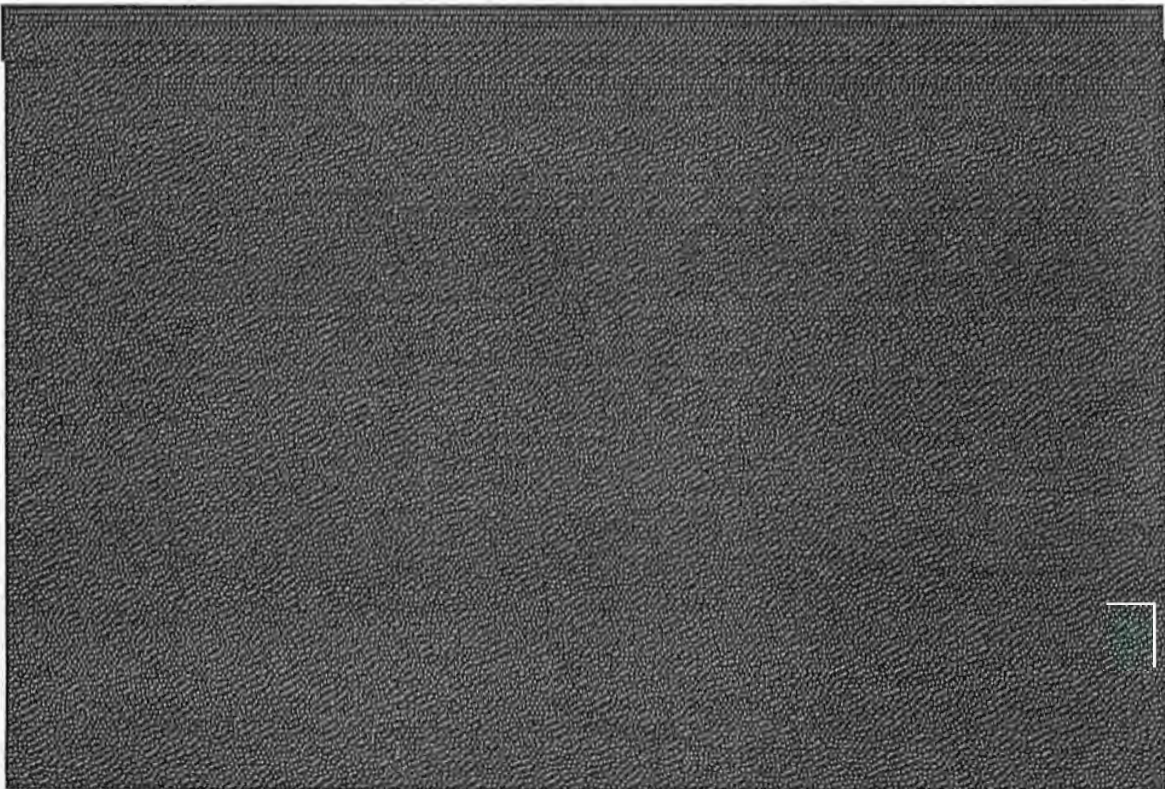
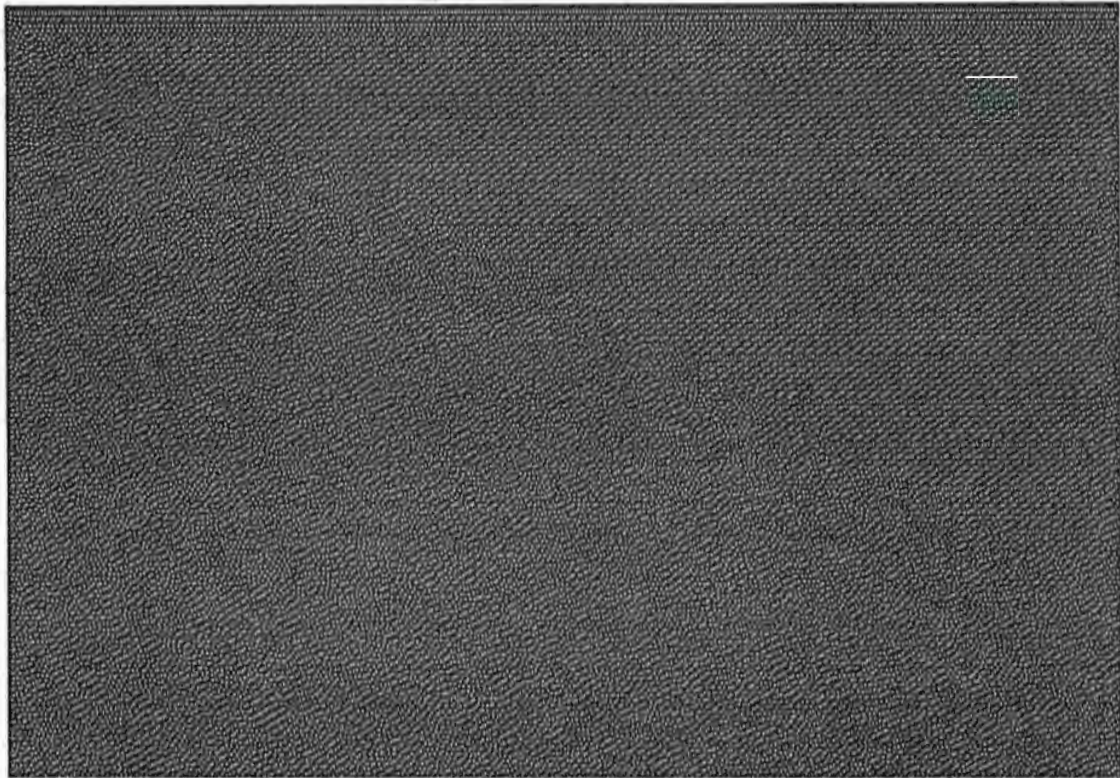
[REDACTED]

~~SECRET~~

700059

pg 2 of 3

~~SECRET~~



700060

~~SECRET~~

pg 3 of 3

~~SECRET~~

[REDACTED]

FM CJTF 170

SUBJ/

NARR/

~~SECRET~~

SERIAL: (U)

COUNTRY: (U)

IPSP: (U)

WARNING: (U) THIS IS AN INFORMATION REPORT NOT FINALLY EVALUATED INTELLIGENCE. REPORT CLASSIFIED ~~SECRET~~.

DEPARTMENT OF DEFENSE

DOI: (U)

REQS: (U)

SOURCE: (S) [REDACTED] ISN [REDACTED] 61 MURAT ((KARNAZ)). [REDACTED]

SUMMARY: [REDACTED]

TEXT: (U)

-----TEAR LINE-----

1. (U) [REDACTED]

2. (U) ON 19 MAR 02, INTERVIEWED MURAT ((KARNAZ)). MURAT KARNAZ WAS ADVISED AS TO THE NATURE OF THE INTERVIEW AND THE IDENTITY OF THE INTERVIEWING AGENTS. PRIOR TO ANY QUESTIONING, MURAT KARNAZ'S HANDCUFFS WERE REMOVED AND HE WAS ASKED ABOUT THE CONDITIONS AND HIS TREATMENT WITHIN THE CAMP TO WHICH HE RESPONDED THAT THE CONDITIONS WERE GOOD AND HE WAS BEING TREATED FAIRLY, HOWEVER, HE MISSED HIS HOME.

3. (U) MURAT KARNAZ PROVIDED THE FOLLOWING INFORMATION PERTAINING TO MEMBERS OF HIS FAMILY-

- [REDACTED] (FATHER) APPROXIMATELY 50 YEARS OF AGE
- [REDACTED] (MOTHER)
- [REDACTED] (BROTHER), 13 YEARS OF AGE
- [REDACTED] (BROTHER) 5 YEARS OF AGE

4. (U) MURAT KARNAZ STATED HE LIVED IN BREMEN, GERMANY WITH HIS

~~SECRET~~

pg 1 of 4
700061
EXHIBIT RIS

~~CONFIDENTIAL~~

FAMILY AND HAD LIVED THERE ALL HIS LIFE. HE IDENTIFIED HE ATTENDED THE KURRA (DOME) MASQUE WITH HIS FATHER AND BELIEVES THE IMAM'S NAME WAS [REDACTED]

-MURAT KURNAZ PROVIDED THE FOLLOWING INFORMATION ABOUT HIS WIFE.

-- [REDACTED] (MAIDEN NAME-- [REDACTED], FROM TURKEY AND BORN 1981.

-- MURAT KURNAZ IDENTIFIED HIS WIFE LIVED IN TURKEY AND PLANNED TO TRAVEL TO GERMANY IN DECEMBER, 2001 TO BE WITH HIM. MURAT KURNAZ EXPLAINED HER DELAY IN BEING WITH HIM WAS DUE TO HER NOT BEING A GERMAN CITIZEN AND SHE WOULD BE REQUIRED TO APPLY FOR VARIOUS PAPERS PRIOR TO TRAVELING TO GERMANY TO STAY WITH HIM.

5. (U) MURAT KURNAZ IDENTIFIED HE LIVED A TYPICAL LIFE AS A TEENAGER, ATTENDING VARIOUS DANCE CLUBS AND OTHER ACTIVITIES WITH HIS FRIENDS, HOWEVER, WANTED SOMETHING MORE AND BEGAN LOOKING FURTHER INTO HIS RELIGION. HE STATED HE BEGAN ATTENDING THE MASQUE AND PRAYING MORE FREQUENTLY AND AFTER GETTING MARRIED DURING THE SUMMER OF 2001, HE DECIDED TO TRAVEL TO PAKISTAN (PK) TO LEARN ARABIC AND MORE ABOUT ISLAM.

6. (U) MURAT KURNAZ STATED HIS FATHER WOULD TAKE HIM AND HIS BROTHERS TO THE [REDACTED] MASQUE AND IDENTIFIED THE IMAM AS [REDACTED] IT WAS AT THIS MASQUE THAT HE MET INDIVIDUALS FROM THE JAMAYAT TABLIQ. HE INDICATED THAT THESE PEOPLE WOULD GO TO HIS MASQUE ABOUT ONCE A MONTH FOR A SIX MONTH PERIOD PRIOR TO HIM DEPARTING FOR PK. THE GROUP CONSISTED OF ABOUT 4-5 MALES WHO WOULD PREACH AND ENGAGE VARIOUS MEMBERS IN CONVERSATION. MURAT KURNAZ INDICATED THAT HE PROVIDED HIS NAME, HIS ADDRESS AND TELEPHONE NUMBER TO MEMBERS OF THE JAMAYAT TABLIQ. TWO MEMBERS OF THE ORGANIZATION WERE DESCRIBED AS FOLLOWS-

-- [REDACTED] MALE PAKISTANI, APPROXIMATELY 40-45 YEARS OF AGE, NFI. [REDACTED] A TURKISH MALE, 17-18 YEARS OF AGE.

BOTH [REDACTED] ARE BELIEVED TO BE FROM THE AREA [REDACTED].

-- KURNAZ ALSO INDICATED THE JAMAYAT TABLIQ TO BE ASSOCIATED WITH A RADICAL TURKISH GROUP KNOWN AS FAZILET PARTY FROM NEUSTADT BREMEN, GERMANY.

7. (U) SOMETIME NEAR THE END OF JULY, 2001, MURAT KURNAZ AND [REDACTED] FROM BREMEN, GERMANY, PLANNED TO TRAVEL TO PK. ON, OCTOBER 3, 2001 BOTH KURNAZ AND [REDACTED] ATTEMPTED TO DEPART THE FRANKFURT, GERMANY AIRPORT FOR PK, HOWEVER, [REDACTED] WAS STOPPED, QUESTIONED AND DETAINED CONCERNING VARIOUS UNPAID LEGAL FEES. KURNAZ WAS THEN FORCED TO TRAVEL TO PK ALONE. HE PLANNED ON STAYING FOR ONE AND A HALF TO TWO MONTHS.

8. (U) MURAT KURNAZ IDENTIFIED HE DID NOT DISCUSS HIS PLANNED TRIP TO PK WITH EITHER HIS PARENTS OR PERSONS FROM HIS MASQUE. KURNAZ STATED HIS FAMILY WOULD BE CONCERNED OF HIM LOSING HIS JOB.

9. (U) KURNAZ STATED HE WAS NOT ASSOCIATED WITH THE JAMAYAT TABLIQ OR THE FAZILET PARTY YET THROUGHOUT HIS TRAVELS THROUGH PK HE CONTINUED TO SEEK HELP FROM PERSONS AFFILIATED WITH JAMAYAT TABLIQ.

10. (U) DURING HIS FLIGHT TO KARACHI, HE MET AN INDIVIDUAL NAMED [REDACTED] ON THE PLANE WHO THEN GAVE HIM HIS TELEPHONE NUMBER. [REDACTED] CONVINCED KURNAZ TO TRAVEL TO ISLAMABAD, WHICH WAS WHERE [REDACTED] RESIDED.

11. (U) KURNAZ STATED HE STAYED IN VARIOUS GUESTHOUSES IN ISLAMABAD FOR APPROXIMATELY 5 DAYS. DURING THE FIVE DAYS, HE ATTEMPTED TO CONTACT [REDACTED] VIA TELEPHONE, ABOUT 5-6 TIMES, HOWEVER, WAS UNSUCCESSFUL. KURNAZ WAS UNABLE TO RECALL THE TELEPHONE NUMBER OF [REDACTED] AT THIS TIME.

12. (U) WHILE IN ISLAMABAD, HE OVERHEARD SOME ENGLISH SPEAKING PERSONS THAT THEY WERE ASSOCIATED WITH JAMAYAT TABLIQ. THEY INFORMED KURNAZ THAT THEY WOULD TRAVEL FROM MASQUE TO MASQUE STAYING AT EACH FOR WEEKS AT A TIME.

[REDACTED] KURNAZ THEN TRAVELED TO LAHORE, PAKISTAN WHERE HE MET AN INDIVIDUAL NAMED [REDACTED] WHO WAS IN CHARGE OF THE SCHOOL AND MASQUE. HE INDICATED THAT HE WOULD HELP KURNAZ TO GET WORK AND GO TO SCHOOL. HE WAS TOLD TO RETURN THE FOLLOWING DAY FOR AN ANSWER CONCERNING HIS ACCEPTANCE. UPON HIS RETURN THE FOLLOWING DAY, HE WAS INFORMED THAT [REDACTED] WAS NOT CURRENTLY IN PAKISTAN AND WAS UNABLE TO STAY AT THE FACILITY. KURNAZ WAS THEN TAKEN BY TAXI TO A GUESTHOUSE WHERE HE STAYED FOR SEVERAL DAYS. HOWEVER, DURING THAT TIME AGAIN KURNAZ REQUESTED TO ENTER THE SCHOOLING FACILITY, HOWEVER, WAS DENIED.

14. (U) KURNAZ STATED THAT PERSONNEL AT THE SCHOOL WERE SUSPICIOUS OF HIM DUE TO HIS EUROPEAN FEATURES (BLOND HAIR AND BLUE EYE COLOR) AND OPENLY SUSPECTED HIM OF WORKING FOR THE NEWSPAPER.

15. (U) KURNAZ THEN TRAVELED BY BUS TO KARACHI WHERE HE PLANNED TO FLY BACK TO GERMANY. HE STAYED AT A MASQUE LOCATED NEAR THE AIRPORT, HOWEVER, DECIDED TO STAY LONGER IN PAKISTAN. HE THEN INDICATED THAT HE STAYED AT APPROXIMATELY 4 MASQUES DURING A 2-3 WEEK TIME PERIOD.

16. (U) MURAT KURNAZ MET A GROUP CONSISTING OF ABOUT 7 PEOPLE AND WERE AFFILIATED WITH THE JAMAYAT TABLIQ, OF WHICH HE WAS ABLE TO RECALL THE FOLLOWING PERSONS-

- [REDACTED] NFI
- [REDACTED] NFI

17. (U) THE GROUP PROVIDED HIM WITH AN ADDRESS OF A MASQUE LOCATED IN ISLAMABAD. KURNAZ DECIDED TO TRAVEL TO THAT MASQUE WHERE HE PLANNED TO STAY. HE THEN TRAVELED BY TAXI TO ISLAMABAD AND TO THE MASQUE. WHILE AT THE MASQUE, HE MET AN INDIVIDUAL NAMED [REDACTED] WHO HE IDENTIFIED AS SPOKE ENGLISH VERY WELL, AND WAS FROM PK. WHILE IN ISLAMABAD HE STAYED AT THREE DIFFERENT MASQUES.

18. (U) [REDACTED] REQUESTED KURNAZ TO TRAVEL WITH HIM TO PESHAWAR, PK WHO INFORMED HE WAS GOING THERE TO TEACH THE QORAN. THEY STAYED AT AN UNIDENTIFIED MASQUE IN PESHAWAR FOR TWO DAYS. [REDACTED] THEN LEFT KURNAZ FOR ABOUT THREE DAYS TO VISIT HIS FAMILY, HOWEVER, UPON HIS RETURN REQUESTED KURNAZ TO TRAVEL WITH HIM VIA BUS TO AN UNSPECIFIED LOCATION. THEY TRAVELED, TO THE UNIDENTIFIED CITY WHERE THEY STAYED ONE NIGHT AT A GUESTHOUSE. THE NEXT DAY THEY BOARDED A BUS TO TRAVEL BACK TO PASHAWAR, HOWEVER, ABOUT TEN MINUTES INTO THE TRIP THE BUS WAS STOPPED BY POLICE OFFICIALS WHO THEN ARRESTED KURNAZ. KURNAZ IDENTIFIED [REDACTED] WAS UNABLE TO DEPART THE BUS TO PROVIDE ASSISTANCE TO HIM AND THAT [REDACTED] WAS IN POSSESSION OF HIS

~~SECRET~~

SECOND BAG THAT CONTAINED HIS MONEY AND IDENTIFICATION.

19. (U) KURNAZ STATED HE HAD NO KNOWLEDGE OF THE SEPTEMBER 11 ATTACKS NOR ANY OTHER ATTACKS AGAINST THE UNITED STATES. HE ALSO COULD NOT PROVIDE ANY INFORMATION PERTAINING TO TALIBAN OR AL QAEDA MEMBERS. KURNAZ DID INDICATE THAT HE WOULD CONTACT THE UNDERSIGNED AGENTS WITH ANY INFORMATION PERTAINING TO ANY DETAINEES PLANS OF UNREST.

-----TEAR LINE-----

//

RMKS/

COMMENTS:

1. ~~TOP~~ [REDACTED]

2. ~~TOP~~ TO AID COLLECTION EFFORTS, EVALUATIONS SHOULD BE SENT TO

[REDACTED]

COLL: (U)

INSTR: (U) U.S. NO.

PREP: (U)

ACO: (U) GUANTANAMO BAY, CU

~~WARNING: (U) REPORT CLASSIFIED AS SECRET //~~

DECL/DERI:DRV FROM: [REDACTED]

~~SECRET~~

700064

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~~SECRET~~

DEPARTMENT OF DEFENSE
JOINT INTERAGENCY INTERROGATION FACILITY (JIIF)
GUANTANAMO BAY, CUBA
JTF-170
APO AE 09360

24 FEBRUARY 2002

MEMORANDUM FOR RECORD

THRU: [REDACTED]

TO: COMMANDER, JIIF, JTF-170, GUANTANAMO BAY, CUBA APO AE 09360

SUBJECT: ~~TOP SECRET~~ SUMMARY INTERROGATION REPORT [REDACTED]

2. [REDACTED]

[REDACTED]

SOURCE FIRST ENCOUNTERED THIS GROUP IN JUNE 2001 AT HIS MOSQUE IN BREMEN. THEY PREACHED ISLAM AND THE BENEFITS OF LIVING ACCORDING TO ISLAMIC LAW. SOURCE CLAIMS THEY WERE NOT A FANATICAL GROUP. HE SAID THEY NEVER PREACHED AGAINST THE U.S. OR GERMANY AND NEVER PROMOTED MILITANT PHILOSOPHIES. THE GROUP HAD NO OFFICES IN GERMANY. THEY TRAVELED TO MOSQUES THROUGHOUT THE COUNTRY ON INVITATION ONLY. [REDACTED]

5. ~~TOP SECRET~~ CONCLUSIONS/RECOMMENDATIONS. [REDACTED]

~~SECRET~~

700065
EXHIBIT

Page 1 of 2

R16

[REDACTED]
[REDACTED] THIS SOURCE MAY ACTUALLY HAVE NO AL-QAIDA OR TALIBAN
ASSOCIATION [REDACTED]

6. (U) POC THIS MEMORANDUM IS THE UNDERSIGNED AT DSN [REDACTED]

[REDACTED]
CW3, USA
CHIEF, INTERROGATION TEAM 2

700066

~~SECRET~~

From: [REDACTED]
Sent: [REDACTED]
To: [REDACTED]
Subject: Additional Release Memos
Classification: ~~SECRET~~
Caveats: NONE

Sir:

I completed and printed out release memos to be signed for the following detainees:

[REDACTED]

PK [REDACTED] CITF has no definite link/evidence of detainee having an association with al Qaida or making any specific threat toward the U.S. (See notes on CITF memo.)

[REDACTED]

[REDACTED] 061: The Germans confirmed that this detainee has no connection to an al Qaida cell in Germany. ID of detainee was confirmed. [REDACTED]

[REDACTED]

V/R

[REDACTED]

~~Classification: SECRET
Caveats: NONE~~

~~SECRET~~



~~SECRET//NOFORN~~
DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE
6010 8TH STREET
FORT BELVOIR, VIRGINIA 22060

REPLY TO
ATTENTION OF

CITF-CDR

19 May 2003

MEMORANDUM THRU

~~FOIA~~ 19 MAY 03
Commanding General, USACIDC, Fort Belvoir, Virginia 22060

Army General Counsel, Headquarters, Department of the Army, Army Pentagon

FOR General Counsel, Department of Defense

SUBJECT: ~~(S)~~ Assessment UP Implementation Guidance for Release or Transfer of
Detainees under U.S. Department of Defense (DoD) Control to Foreign Government
Control/Detainee Murat Kurnaz, ISN: [REDACTED] 061 [REDACTED]

1. ~~(S//NF)~~ Recommendation: Based on the information available at this time, it
appears [REDACTED] that Kurnaz will be determined to be an individual subject to the
President's Military Order of 13 November 2001. I recommend [REDACTED]

2. ~~(S//NF)~~ Factual Synopsis: Unless otherwise noted, this synopsis is based on
Kurnaz's uncorroborated statements to interrogators. Kurnaz is a 21 year-old Turkish
national born in Bremen, Germany. He has lived in Germany since birth but holds a
Turkish passport and claims Turkish citizenship. He has been evasive when
questioned about possible German citizenship, and he now says that he does not wish
to return to Turkey, because he will be required to join the army.

Kurnaz flew from Frankfurt to Karachi, Pakistan on 3 October 2001, purportedly to learn
Arabic and more about Islam. He attempted to travel with his friend [REDACTED] who
was arrested before boarding the flight, for outstanding legal fees. Kurnaz continued,
and met a Pakistani on the flight who convinced Kurnaz to travel on to Islamabad. In
Islamabad, Kurnaz overheard individuals discussing the Jamayat Tabliq ((JT) a non-
governmental organization that has been used by al-Qaida agents to conduct terrorist
activities). He decided to travel to the JT mosque and school in Lahore, Pakistan.
Kurnaz was denied admission to the school, and returned to Karachi with the intent
to return to Germany. He remained in Karachi for a few weeks, and was convinced by a
group of seven individuals affiliated with JT to visit a mosque in Islamabad. Kurnaz met
a man named [REDACTED] at this mosque, who asked Kurnaz to travel with him to
Peshawar. After five days in Peshawar, Kurnaz and [REDACTED] traveled via bus to a
Pakistani village near the Afghan border. On their return trip the bus was stopped at a

DRV FM: [REDACTED] DECL: [REDACTED]

~~SECRET//NOFORN~~

The content of this document was prepared by an employee of the federal government for internal Executive Branch
use, is predecisional and contains deliberative process material, and therefore is exempt from disclosure pursuant to
Exemption 5 of the Freedom of Information Act (FOIA), 5 U.S.C. section 552(b)(5).

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EXHIBIT R18

~~SECRET//NOFORN~~

CITF-CDR

SUBJECT: ~~(S)~~ Assessment UP Implementation Guidance for Release or Transfer of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government Control/Detainee Murat Kurnaz, [REDACTED] 061 [REDACTED]

checkpoint. [REDACTED] detained Kurnaz and turned him over to U.S. forces on [REDACTED]

Kurnaz's version of events raises several questions that remain unanswered. [REDACTED] brother told investigators that Kurnaz left Germany to fight against the U.S. Kurnaz left for Pakistan after 11 September 2001, and he has made contradictory statements regarding his knowledge of the attacks. Further contact with German authorities is needed to complete interviews of potential witnesses in Germany. Kurnaz's statement regarding his time in Pakistan needs to be clarified regarding his association with JT. There is no indication that Kurnaz was in direct contact with a Taliban recruiter; however, he regularly associated with individuals connected to JT throughout his travels in Pakistan.

JTF 170 interviews: [REDACTED]

CITF interviews/recommendations: [REDACTED]

KB: [REDACTED]

Polygraph Consideration: None offered.

JTF 170/GTMO release recommendations: [REDACTED]

3. ~~(S//NF)~~ Military Commission Jurisdiction Assessment: Based on the information available at this time, it appears [REDACTED] that Kurnaz will be determined to be an individual subject to the President's Military Order of 13 November 2001.
 - a. Kurnaz is not a United States citizen. He appears to be a citizen of Turkey.
 - b. CITF is not aware of evidence that Kurnaz was or is a member of al-Qaida.
 - c. CITF is aware of indicators that Kurnaz may have aided or abetted, or conspired to commit acts of terrorism against the U.S., its citizens or interests.
 - d. CITF is not aware of any evidence that Kurnaz has knowingly harbored any individual who was a member of al-Qaida or who has engaged in, aided or abetted, or conspired to commit acts of terrorism against the U.S., its citizens or interests.
4. ~~(S//NF)~~ Law Enforcement Value Assessment:
 - a. Continued Investigation: CITF believes that further investigation of Kurnaz may produce new information relevant to this recommendation. CITF is awaiting

2

~~SECRET//NOFORN~~

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790264

CITF-CDR

SUBJECT: ~~(S)~~ Assessment UP Implementation Guidance for Release or Transfer of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government Control/Detainee Murat Kurnaz, ISN [REDACTED] 061 [REDACTED]

responses from German authorities concerning Kurnaz's motivation for attempting to enter Afghanistan.

b. Potential Charges: CITF is [REDACTED]

c. Witness Potential: CITF is [REDACTED]

5. ~~(S//NF)~~ Threat Assessment: CITF is aware of [REDACTED]

6. ~~(S//NF)~~ 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]			

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

~~SECRET//NOFORN~~

CITF-CDR

SUBJECT: ~~Assessment UP Implementation Guidance for Release or Transfer of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government Control/Detainee Murat Kurnaz, ISN [REDACTED] 61 [REDACTED]~~

b. The following table is a summary of intelligence community databases reviewed by CITF analysts:

Database	Date Review Completed	Hits * (Number)
[REDACTED]	[REDACTED]	[REDACTED]

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

[REDACTED] In the absence of further information, I recommend [REDACTED]

[REDACTED]

COL, MP
Commanding

4

~~SECRET//NOFORN~~

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~~SECRET//NF~~



REPLY TO
ATTENTION OF

DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
3511 NW 91ST AVENUE
MIAMI, FLORIDA 33172-1217

SCJ2

25 June 2004

MEMORANDUM THRU Chairman, Joint Chiefs of Staff, 9999 Joint Staff, Pentagon Room
2E872, Washington, DC 20318-9999

FOR Secretary of Defense, 1000 Defense Pentagon, Washington, DC 20301-1000

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of
Detainee ISN [REDACTED] 061 [REDACTED]

1. ~~(FOUO)~~ Personal Information:

- a. Name: Murat Kunn
- b. Aliases: Murat Karnaz
- c. Place of Birth: Bremen, Germany (GE)
- d. Date of Birth: 19 March, 1982
- e. Citizenship: Turkey (TU)
- f. Detainee is in good health.

2. ~~(S)~~ Detention Information:

a. ~~(S)~~ Circumstances of Capture: Subject detainee [REDACTED]

b. ~~(S)~~ Transfer to Guantanamo Bay Naval Base, Cuba: Detainee was subsequently
transported to Guantanamo Bay Naval Base, Cuba, on [REDACTED]

3. ~~(S)~~ Prior Assessment: On 21 June 2002, BG Ronald L. Burgess, Director of Intelligence, US
Southern Command, recommended that detainee be [REDACTED]

4. ~~(S)~~ New Information:

~~SECRET//NF~~

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EXHIBIT

R19

SCI2

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of
Detainee ISN [REDACTED] 61 [REDACTED]

a. (S) [REDACTED]

b. (S) [REDACTED]

(1) (S) [REDACTED]

(2) (S) [REDACTED]

(3) (S) [REDACTED]

c. (S) [REDACTED]

(1) (S) [REDACTED]

(2) (S) [REDACTED]

Analyst note:

(3) (S) [REDACTED]

Analyst note:

(4) (S) [REDACTED]

SCJ2

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of
Detainee ISN [REDACTED] 061 [REDACTED]

5. ~~(S)~~ Intelligence Value: [REDACTED]

[REDACTED]

a. ~~(S)~~ [REDACTED]

[REDACTED]

- (1)
- (2)
- (3)

[REDACTED]

- b.
- c.
- d.
- e.

[REDACTED]

- (1)
- (2)
- (3)
- (4)

[REDACTED]

f. [REDACTED]

[REDACTED]

- (1)
- (2)

[REDACTED]

6. ~~(S)~~ Detainee Conduct: ISN [REDACTED] 061 [REDACTED] overall behavior has been generally non-compliant and aggressive.

a. ~~(S)~~ On [REDACTED], ISN [REDACTED] 061 [REDACTED] inciting a disturbance on the cellblock.

~~SECRET//NF~~

SCJ2

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of Detainee ISN [REDACTED] 061 [REDACTED]

b. (S) On [REDACTED], while guards were asking another detainee about the content of his cup was, ISN [REDACTED] 061 [REDACTED] stated that it was probably a bomb, and it would blow up after the guards took it out of his cell.

c. (S) On [REDACTED], ISN [REDACTED] 061 [REDACTED] verbally abused guards.

d. (S) On [REDACTED] ISN [REDACTED] 061 [REDACTED] stated that if he was not able to see the commander, there were going to be big problems.

e. (S) ISN [REDACTED] 061 [REDACTED] has demonstrated numerous other non-hostile and harassing actions including failures to comply, throwing water on guards, tearing up meal plates and successfully hoarding food.

f. (S) ISN [REDACTED] 061 [REDACTED] also has demonstrated ongoing attempts to collect intelligence from the guards. Suspicious activity includes:

(1) (S) In [REDACTED] he asked about Camp [REDACTED]. On [REDACTED] detainee [REDACTED] was asked in which section of Camp Delta he is staying.

(2) (S) On [REDACTED], he attempted to elicit information about [REDACTED].

(3) (S) On [REDACTED] detainee attempted to obtain information concerning detainee transfers and [REDACTED] in November block.

(4) (S) On [REDACTED] detainee attempted to discuss the current work schedule of the guards and determine if the schedule would be a temporary or permanent based on changes that may take place due to the new general at JTF GTMO.

(5) (S) On [REDACTED], detainee attempted to learn additional information on the rank structure of the guards assigned to Camp Delta.

(6) (S) In [REDACTED] detainee began to show his awareness of the reporting database, when he instructed the guard on duty to annotate that he ate his entire meal, although he had only eaten the apple. He has posed several similar instructions or comments about the database to the guards.

(7) (S) Possibly in an attempt to estimate the heights of the fences, on [REDACTED] the detainee asked how tall the basketball rim was.

g. (S) Detainee has shown contempt for senior US members and the US.

~~SECRET//NF~~

700075

pg 4 of 6

SCJ2

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of Detainee ISN [REDACTED] 0061 [REDACTED] (S).

(1) (S) On several occasions, detainee has covered his ears and prayed loudly during the US National Anthem.

(2) (S) On [REDACTED], detainee stated that the attacks of 11 September 2001 correspond with verses in the Koran where it states to fight against infidels, adding that it can be found in the ninth chapter, eleventh verse. He added that the World Trade Center has 110 stories, and that this verse can be found on line 110 in this chapter of the Koran.

b. [REDACTED]

7. (S) Assessment:

a. (S) Enemy Combatant Status: Detainee's enemy combatant status was reassessed on 24 February 2004, and he remains an enemy combatant.

b. (S) Summary: [REDACTED]

c. (S) Risk Assessment: Based on the above, detainee is considered [REDACTED] risk and [REDACTED] pose a threat to the US, its interests, and allies.

8. (S) Recommendation. In view of the foregoing, I recommend subject detainee be [REDACTED]

9. (S) Coordination: [REDACTED]


~~SECRET//SI~~

SCJ2

SUBJECT: Updated Assessment and Recommendation to [REDACTED] in the Case of
Detainee ISN [REDACTED] 061 [REDACTED]

[REDACTED]

FOR THE COMMANDER:


DAVID B. LACQUEMENT
Brigadier General U.S. Army
Director of Intelligence

1 Encl

1. [REDACTED]

DERIVED FROM: [REDACTED]
DECLASSIFY ON: [REDACTED]

~~SECRET//SI~~

7000774 led 6



~~SECRET//NOFORN~~
DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE
6010 6TH STREET
FORT BELVOIR, VIRGINIA 22060

REPLY TO
ATTENTION OF

CITF-CDR

3 June 2004

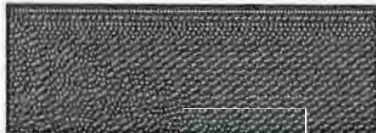
MEMORANDUM THRU

For [REDACTED]
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: ~~(S//NF)~~ Assessment UP Implementation Guidance for Release or Transfer
of Detainees under U.S. Department of Defense (DoD) Control to Foreign Government
Control/Detainee Murat Kurnaz, ISN# [REDACTED] 061 [REDACTED]

1. ~~(S//NF)~~ Reference memoranda, CITF, 19 May 2003 and JTF-GTMO, [REDACTED] 2004.
2. ~~(S//NF)~~ [REDACTED]
3. ~~(S//NF)~~ On 21 May 2004, JTF-GTMO assessed [REDACTED] threat to the U.S.,
it's interests or allies.
4. ~~(S//NF)~~ [REDACTED]



CCL, MP
Commanding

Classified by: [REDACTED] DECL: [REDACTED]

~~SECRET//NOFORN~~

The content of this document was prepared by an employee of the federal government for internal Executive Branch use, is predecisional and contains deliberative process material, and therefore is exempt from disclosure pursuant to Exemption 5 of the Freedom of Information Act (FOIA), 5 U.S.C. section 552(b)(5).

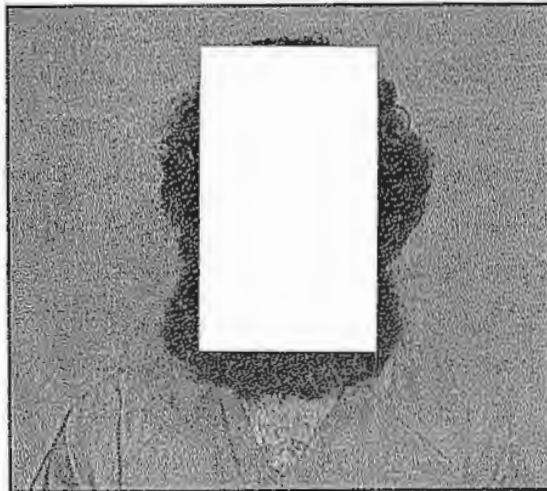
700078

page 1 of 1

EXHIBIT R20

~~SECRET//NOFORN~~

ISN: [REDACTED] 06 [REDACTED]
NAME: KARNAZ, MURAT
ALIASES: KARNAZ, MURAT
KUNN, MURAT
KURNATZ, MURAT
KURNAZ, MURAT



NO POLYGRAPH DATA FOUND

NO VOICE PRINT FOUND

INTEL VALUE ASSESSMENT:

A. [REDACTED]

B. The Detainee has [REDACTED] outstanding per [REDACTED].

C. Detainee's threat level is [REDACTED] Detainee's intel value is [REDACTED].

D. ASSESSMENT: [REDACTED]

ANALYST COMMENTS: [REDACTED]

INTEL BACKGROUND: BACKGROUND: [REDACTED]

CIRCUMSTANCES OF CAPTURE: CIRCUMSTANCES OF CAPTURE: [REDACTED]

~~SECRET//NOFORN~~

http: [REDACTED]

700079 EXHIBIT R21

page 1 of 2

~~SECRET//NOFORN~~

[REDACTED]

PERSONAL HISTORY: DOB: 19-MAR-1982; POB: BREMEN GERMANY; CITIZENSHIP: TURKEY, TURKEY, BREMEN, GERMANY, 03/19/1982, RED, 68, TURKEY, 132; HISTORY: DOB: 19 Mar 1982 in Bremen, Germany. Detainee is an ethnic Turk but his German citizenship has not been verified. A DAB MFR dated 12 Jan 04 requests that the detainee's ISN identifier be changed to reflect "GE" versus Turkey. [REDACTED]

[REDACTED] The detainee speaks Turkish, German and English.

Updated On: 29-May-2004 8:01 AM

Reviewed On: 29-May-2004 8:01 AM

Export to MS Word

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

http [REDACTED]

700880e 2 of 2

8/31/2004

Exhibit R 22 is redacted in full

~~SECRET~~

JTF-170 [REDACTED]

March 15, 2002

MEMORANDUM FOR RECORD

SUBJECT: [REDACTED] ISN [REDACTED] 061 [REDACTED] / MURAT ((KARNAZ)) [REDACTED]
[REDACTED]

1. ~~EST~~ SUMMARY INTERROGATION REPORT. [REDACTED]
[REDACTED]

2. [REDACTED]

a. [REDACTED]
[REDACTED]

b. ~~(S)~~ [REDACTED]
[REDACTED]

-- HE BOUGHT HIS PLANE TICKET TO KARACHI WITH HIS SAVINGS.

-- NO ONE ENCOURAGED HIM TO GO TO PAKISTAN, IT WAS ALL HIS OWN IDEA. HE HAS NO KNOWLEDGE OF ANY [REDACTED] IN HIS LIFE.

-- HE NEVER STOPPED ATTENDING SERVICES AT THE KUBA MOSQUE. AS A TEEN HE HUNG AROUND THE TEEN CENTER THERE MORE OFTEN BUT IN THE LAST YEAR HE STILL ATTENDED FRIDAY PRAYERS THERE.

-- HE DOESN'T KNOW THE IMAM'S NAME AT THE ABU BAKR MOSQUE. HE DESCRIBES THE IMAM ONLY AS AN OLD GUY WITH A BEARD WHO DID NOT SPEAK GERMAN. HE KNOWS OF NO CONNECTION TO THE IMAM AND ANY TERRORIST ORGANIZATION.
[REDACTED]

~~SECRET~~

[REDACTED] HE
HAD NO IDEA [REDACTED] WAS ARRESTED. THE POLICE AT THE AIRPORT
JUST SAID HE COULDN'T LEAVE GERMANY WITHOUT CLEARING UP THE
FINE FOR HIS DOG BITING SOMEBODY.

3. ~~(S)~~ PREVIOUS INFORMATION CONFIRMED. [REDACTED]

4. (U) ADDITIONAL AREAS OF KNOWLEDGEABILITY. [REDACTED]

5. (U) COLLECTOR COMMENTS. [REDACTED]

6. (U) POC THIS MEMORANDUM IS UNDERSIGNED AT [REDACTED]

Exhibit R 24 is redacted in full

UNCLASSIFIED//~~FOUO~~

Personal Representative Review of the Record of Proceedings

I acknowledge that on 3 October 2004 I was provided the opportunity to review the record of proceedings for the Combatant Status Review Tribunal involving ISN #061

I have no comments.

My comments are attached.

Date:

4 OCT 04



Maj.

USAF

Personal Representative

ISN #061
Enclosure (5)

UNCLASSIFIED//~~FOUO~~

700087

Numbers not Used

~~SECRET~~

~~THIS DOCUMENT CONTAINS
CLASSIFIED INFORMATION~~

and stated that this determination was based on unclassified evidence and on one classified document, attached to the factual return as Exhibit R19: Respondents' Factual Return to Petition for Writ of Habeas Corpus by Petitioner Murat Kurnaz (hereinafter "Kurnaz Factual Return"), filed October 18, 2004, Enclosure (2).³³

The Court does not find that the unclassified evidence alone is sufficiently convincing in supporting the CSRT's conclusion that he is a member of al Qaeda.³⁴ That evidence establishes that Mr. Kurnaz attended a mosque in Bremen, Germany which the CSRT found to be moderate in its views but also to have housed a branch of Jema'at-Al-Tabliq (hereinafter "JT"), a missionary organization alleged to have supported terrorist organizations. Kurnaz Factual Return, Enclosure (1) at 2. The unclassified evidence also establishes that Mr. Kurnaz had been friends with an individual named Selcuk Belgin, who is alleged to have been a suicide bomber, and that the detainee traveled to Pakistan to attend a JT school. *Id.* at 2-3. Nowhere does the CSRT express any finding based on unclassified evidence that the detainee planned to be a suicide bomber himself, took up arms against the United States, or otherwise intended to attack American interests. Thus, the most reasonable interpretation of the record is that the classified document formed the most important basis for the CSRT's ultimate determination. That

³³ Although the tribunal makes several references to its reliance on Exhibit R12, those references were typographical errors and the document actually relied upon was Exhibit R19, as recognized by the tribunal's Legal Advisor. See October 14, 2004 Memorandum from James R. Crisfield Jr. to the Director, Combatant Status Review Tribunal, attached to the Kurnaz Factual Return.

³⁴ In fact, for reasons stated later in this opinion, even if all of the unclassified evidence were accepted as true, it alone would not form a constitutionally permissible basis for the indefinite detention of the petitioner. See *infra* section II.C.2.b.

~~SECRET~~

700268

DMO Exhibit 5 redacted in full

DMO Exhibit 7
is a duplicate of Bates 700068-071

700145-148



~~SECRET//NOFORN~~

DEPARTMENT OF DEFENSE
JOINT TASK FORCE GUANTANAMO
GUANTANAMO BAY, CUBA
APO AE 09360



JTF GTMO-CG

02 Aug 2005

MEMORANDUM FOR Commander, United States Southern Command, 3511 NW 91st Avenue,
Miami, FL 33172.

SUBJECT: Update Recommendation [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 061DP [REDACTED]

JTF GTMO Detainee Assessment

1. ~~(FOUO)~~ Personal Information:

- JDIMS/NDRC Reference Name: Murat Kunn
- Aliases and Current/True Name: Murat Kamaz
- Place of Birth: Bremen, Germany (GM)
- Date of Birth: 19 March 1982
- Citizenship: Turkey (TU)
- Internment Serial Number (ISN): [REDACTED] 061 [REDACTED]



2. ~~(FOUO)~~ Health: Detainee is in good health. Has no know medical issues. No allergies or travel restrictions.

3. ~~(S//NF)~~ JTF GTMO Assessment:

a. ~~(S)~~ Recommendation: JTF GTMO recommends this detainee [REDACTED]

b. ~~(S//NF)~~ Summary: JTF GTMO previously assessed detainee as [REDACTED] on 21 May 2004.

For this update recommendation, detainee is assessed [REDACTED]

~~CLASSIFIED BY [REDACTED]
REASON: E.O. 12
DECLASSIFY ON [REDACTED]~~

~~SECRET//NOFORN~~

DMO Exhibit 9
Page 1 of 6

700149

JTF GTMO-CG

SUBJECT: Update Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 061 [REDACTED]

[REDACTED] It is assessed this detainee is a [REDACTED] risk, as [REDACTED]
[REDACTED]

4. ~~(S//NF)~~ **Detainee Background Summary:** Unless otherwise noted, the following paragraphs are based solely on the detainee's statements.

a. ~~(S//NF)~~ **Prior History:** Detainee was born and raised in Germany, but claims Turkish citizenship. Detainee attended three Mosques while in Germany, the Quba Mosque, Abu Baket (variant Abu Baker/Bakr) Mosque, and the Fahti Mosque. An individual named Bilal was the Imam of the Quba Mosque. Detainee also met individuals from the Jama'at Tablighi at the Quba Mosque and listened to them preach for a six month period before traveling to Pakistan. He met two JT members [REDACTED]. In Summer of 2001, detainee claimed he decided to travel to Pakistan to learn Arabic and increase his knowledge of Islam.

b. ~~(S//NF)~~ **Recruitment and Travel:** On 3 October 2001, Detainee and associate [REDACTED] attempted to travel to Pakistan via Frankfurt, GM. German authorities detained [REDACTED] at the airport, and detainee was forced to travel alone to Pakistan. Throughout detainee's travels in Pakistan, he sought assistance from members of the JT. After detainee arrived in Pakistan, he stayed in various guesthouses in Islamabad. Detainee then traveled to Lahore, PK. After speaking with members of JT, he stayed at an unidentified guesthouse. Detainee then traveled to Karachi, PK, and during a two to three week period resided in four mosques. Members of the JT informed detainee about a mosque in Islamabad and detainee returned to that city. He stayed at the recommended mosque, as well as two other mosques. According to detainee's account, an associate named [REDACTED] requested detainee travel to Peshawar to teach the Koran.

c. ~~(S//NF)~~ **Capture Information:** Less than a week after arriving in Peshawar, PK, detainee accompanied [REDACTED] to an unknown city for one day. The pair attempted to return to Peshawar the next day, but police officials stopped the bus and arrested detainee. Detainee claimed [REDACTED] stayed on the bus and kept detainee's baggage, along with his identification. [REDACTED] transferred detainee to US control no later than [REDACTED].

d. ~~(S)~~ **Transferred to JTF GTMO:** [REDACTED]

e. ~~(S//NF)~~ **Reasons for Transfer to JTF GTMO:** [REDACTED]
[REDACTED]

JTF GTMO-CG

SUBJECT: Update Recommendation for [REDACTED] for
Guantanamo Detainee, ISN [REDACTED] 061 [REDACTED]

[REDACTED]

5. ~~(S//NF)~~ Detainee Threat:

a. ~~(S)~~ Assessment: It is assessed the detainee poses a [REDACTED] risk, as he is [REDACTED] pose a threat to the US, its interests and allies.

~~(S//NF)~~ Reasons for Continued Detention:

[REDACTED]

JTF GTMO-CG

SUBJECT: Update Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 0061 [REDACTED]

[REDACTED]

[REDACTED]

JTF GTMO-CG

SUBJECT: Update Recommendation for [REDACTED] for
Guantanamo Detainee. ISN: [REDACTED] 061 [REDACTED]

[REDACTED]

[REDACTED]

b. ~~(S//NF)~~ Detainee's Conduct: Detainee is assessed as a [REDACTED] threat from a detention perspective. Detainee's overall behavior has been non-compliant and non-aggressive.

6. ~~(S//NF)~~ Detainee Intelligence Value Assessment:

a. ~~(S//NF)~~ Assessment: JTF GTMO determined detainee is of [REDACTED] intelligence value.

[REDACTED]

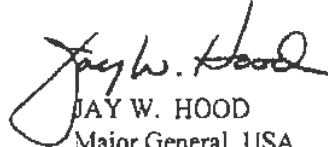
b. ~~(S//NF)~~ Areas of Potential Exploitation:

[REDACTED]

JTF GTMO-CG

SUBJECT: Update Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 061 [REDACTED]

7. ~~(S)~~ **EC Status:** Detainee's enemy combatant status was reassessed on 30 September 2004, and he remains an enemy combatant.


JAY W. HOOD
Major General, USA
Commanding

~~SECRET//NOFORN~~

REVIEW OF CSRT

ISN 61

~~PORTIONS OF THE FOLLOWING FILE ARE
CLASSIFIED UP TO THE LEVEL INDICATED ON THIS
COVER SHEET AND SHOULD BE HANDLED AS
SECRET//NOFORN.~~

~~PORTIONS OF THE FILE MARKED WITH A LESSER
CLASSIFICATION SHOULD BE HANDLED AS MARKED
WHEN SEPARATED FROM THE REST OF THIS FILE.~~

~~SECRET//NOFORN~~

DMO Exhibit 10
Page 1 of 24



~~FOUO~~

Department of Defense
Director, Combatant Status Review Tribunals

OARDEC/Ser: 0215
15 October 2004

~~FOR OFFICIAL USE ONLY~~

From: Director, Combatant Status Review Tribunal

Subj: REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL FOR
DETAINEE ISN # 061

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Order of 29 July 2004

1. I concur in the decision of the Combatant Status Review Tribunal that Detainee ISN #061 meets the criteria for designation as an Enemy Combatant, in accordance with references (a) and (b).
2. This case is now considered final, and the detainee will be scheduled for an Administrative Review Board.

J. M. McGARRAH
RADM, CEC, USN

Distribution:
NSC (Mr. John Bellinger)
DoS (Ambassador Prosper)
DASD-DA
JCS (J5)
SOUTHCOM (CoS)
COMJTFGTMO
OARDEC (Fwd)
CITF Ft Belvoir

~~FOUO~~

UNCLASSIFIED

14 Oct 04

MEMORANDUM

From: Legal Advisor

To: Director, Combatant Status Review Tribunal

Subj: LEGAL SUFFICIENCY REVIEW OF COMBATANT STATUS REVIEW TRIBUNAL
FOR DETAINEE ISN # 061

Ref: (a) Deputy Secretary of Defense Order of 7 July 2004
(b) Secretary of the Navy Implementation Directive of 29 July 2004

Encl: (1) Appointing Order for Tribunal #5 of 17 August 2004
(2) Record of Tribunal Proceedings

1. Legal sufficiency review has been completed on the subject Combatant Status Review Tribunal in accordance with references (a) and (b). After reviewing the record of the Tribunal, I find that:

- a. The detainee was properly notified of the Tribunal process and made a sworn statement at the Tribunal.
- b. The Tribunal was properly convened and constituted by enclosure (1).
- c. The Tribunal complied with all provisions of references (a) and (b). Note that the Tribunal's several references to "Exhibit R-17" in paragraph 1 of enclosure (2) to their Decision Report appear to be typos. The Tribunal was more likely referring to exhibit R-19.
- d. The detainee made no requests for witnesses or other evidence.
- e. The Tribunal's decision that detainee # 061 is properly classified as an enemy combatant was unanimous.
- f. The detainee's Personal Representative was given the opportunity to review the record of proceedings and declined to submit comments to the Tribunal.

2. The proceedings and decision of the Tribunal are legally sufficient and no corrective action is required.

3. I recommend that the decision of the Tribunal be approved and the case be considered final.


JAMES R. GRISFIELD JR.
CDR, JAGC, USN

UNCLASSIFIED

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UNCLASSIFIED



Department of Defense
Director, Combatant Status Review Tribunals

17 Aug 04

From: Director, Combatant Status Review Tribunals

Subj: APPOINTMENT OF COMBATANT STATUS REVIEW TRIBUNAL #5

Ref: (a) Convening Authority Appointment Letter of 9 July 2004

By the authority given to me in reference (a), a Combatant Status Review Tribunal established by "Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba" dated 29 July 2004 is hereby convened. It shall hear such cases as shall be brought before it without further action of referral or otherwise.

The following commissioned officers shall serve as members of the Tribunal:

MEMBERS:

[REDACTED], Colonel, U.S. Air Force; President

[REDACTED], Lieutenant Colonel, U.S. Air Force; Member
(JAG)

[REDACTED], Lieutenant Commander, U.S. Navy; Member

J. M. MCGARRAH
Rear Admiral
Civil Engineer Corps
United States Naval Reserve

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UNCLASSIFIED



HEADQUARTERS, OARDEC FORWARD
GUANTANAMO BAY, CUBA
APO AE 09360

6 October 2004

MEMORANDUM FOR DIRECTOR, CSRT

FROM: OARDEC FORWARD Commander

SUBJECT: CSRT Record of Proceedings ICO ISN# 061

1. Pursuant to Enclosure (1), paragraph (1)(5) of the *Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants Detained at Guantanamo Bay Naval Base, Cuba* dated 29 July 2004, I am forwarding the *Combatant Status Review Tribunal Decision Report* for the above mentioned ISN for review and action.

2. If there are any questions regarding this package, point of contact on this matter is the undersigned at DSN 660-3088.


DAVID L. TAYLOR
Colonel, USAF

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Page 5 of 24

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(U) Combatant Status Review Tribunal Decision Report Cover Sheet

(U) This Document is UNCLASSIFIED Upon Removal of Enclosures (2) and (4).

(U) TRIBUNAL PANEL: #5

(U) ISN#: 061

Ref: (a) (U) Convening Order for Tribunal #5 of 17 August 2004 (U)
(b) (U) CSRT Implementation Directive of 29 July 2004 (U)
(c) (U) DEPSECDEF Memo of 7 July 2004 (U)

Encl: (1) (U) Unclassified Summary of Basis For Tribunal Decision (U)
(2) (U) Classified Summary of Basis for Tribunal Decision (S//NF)
(3) (U) Summary of Detainee/Witness Testimony (U)
(4) (U) Copies of Documentary Evidence Presented (S//NF)
(5) (U) Personal Representative's Record Review (U)

1. (U) This Tribunal was convened on 30 September 2004 by references (a) and (b) to make a determination as to whether the detainee meets the criteria to be designated as an enemy combatant as defined in reference (c).
2. (U) On 30 September 2004 the Tribunal determined, by a preponderance of the evidence, that Detainee #061 is properly designated as an enemy combatant as defined in reference (c).
3. (U) In particular, the Tribunal finds that this detainee is a member of al-Qaida as more fully discussed in the enclosures.
4. (U) Enclosure (1) provides an unclassified account of the basis for the Tribunal's decision. A detailed account of the evidence considered by the Tribunal and its findings of fact are contained in enclosures (1) and (2).


Colonel, USAF
Tribunal President

~~UNCLASSIFIED//FOUO~~

UNCLASSIFIED SUMMARY OF BASIS FOR TRIBUNAL
DECISION

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

TRIBUNAL PANEL: #5
ISN #: 061

1. Introduction

As the Combatant Status Review Tribunal (CSRT) Decision Report indicates, the Tribunal has determined that this detainee is properly classified as an enemy combatant and is a member of al-Qaida. In reaching its conclusions, the Tribunal considered both classified and unclassified information. The following is an account of the unclassified evidence considered by the Tribunal and other pertinent information. Classified evidence considered by the Tribunal is discussed in Enclosure (2) to the CSRT Decision Report.

2. Synopsis of Proceedings

The unclassified summary of evidence presented to the Tribunal by the Recorder indicated that the detainee is a member or ally of al-Qaida or its network and that the detainee participated in activities with a group that is part of al-Qaida network. Those allegations are as follows:

1. The detainee admitted he traveled from Frankfurt, Germany to Karachi, Pakistan (via plane), to Islamabad, PK (via plane), and to Lahore, PK (via bus) and unnamed village (vicinity of Peshawar, PK) and attempted travel back to Peshawar when he was arrested and brought into custody.
2. The timeline associated with the detainee is as follows: Became associated with an Islamic missionary group named Jama'at-Al-Tabliq in June 01, the United States is attacked on 11 September 01, travels to PK on 3 October 01, continues travels until his capture.
3. Detainee is a close associate with, and planned to travel to PK with, an individual who later engaged in a suicide bombing. Selcuk Bilgin possibly is the Elmanartus suicide bomber.
4. The detainees stated he received free food, lodging and schooling from a NGO known to support terrorist acts against the United States while traveling in PK. He was sponsored by this NGO.
5. The detainee admitted that the school in Lahore, PK was run by this NGO, specifically the NGO President.

~~UNCLASSIFIED//FOUO~~

ISN 0061
Enclosure (1)
Page 1 of 3 Page 7 of 24

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~~UNCLASSIFIED//FOUO~~

The detainee chose to participate in the Tribunal process. He called no witnesses and requested no documents be produced. He made a sworn verbal statement in which he attempted to explain the reasons for his trip to Pakistan and denied being a member of al Qaida.

3. Evidence Considered by the Tribunal

The Tribunal considered the following evidence in reaching its conclusions:

- a. Exhibits: D-a and R-1 through R-24
- b. Sworn testimony of the detainee

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

The Detainee requested no witnesses; no rulings were required.

The Detainee requested no additional evidence be provided.

5. Discussion of Unclassified Evidence

The Tribunal considered the following unclassified evidence in making its determinations:

a. The Recorder offered Exhibits R-1, R-2 and R-3 into evidence during the unclassified portion of the proceeding. Exhibit R-1 is the Unclassified Summary of Evidence. While this summary is helpful in that it provides a broad outline of what the Tribunal can expect to see, it is not persuasive in that it provides conclusory statements without supporting unclassified evidence. Exhibit R-2 is an Affidavit of Rabiye Kurnaz. Mrs. Kurnaz is the detainee's mother and provided the detainee's background and confirmed the date the detainee departed Frankfurt, Germany to Pakistan. Exhibit R-3 is a sworn affidavit of Bernhard Docke, a lawyer retained for the detainee's Habeas Corpus case. The Tribunal found this information somewhat helpful in making its determinations, but considered the sworn testimony of the detainee. The detainee explained that he frequented a mosque in Bremen, Germany that was considered moderate in its views of Islam and tolerant of other religions; however, it also housed a branch of the Jama'at-AI-Tabliq (JT), a Muslim missionary organization, alleged to support terrorist organizations. The detainee stated that an Imam for JT advised the detainee to travel to Pakistan to immerse himself in the study of Islam. The detainee then purchased a ticket to Pakistan, and with his friend Selcuk Belgin, they began their travels. Upon checking in for the flight to Pakistan in Frankfurt, the detainee's friend, Mr. Belgin, was arrested. Mr. Belgin stated that he was arrested because he had outstanding warrants as a result of his dogs biting people. Mr. Belgin is the alleged Ehsanullah suicide bomber. Once in Pakistan, the detainee testified that he traveled to Lahore to attend the JT Muslim school there and traveled to Peshawar, Pakistan for further studies. Upon his return from Peshawar to Lahore the Pakistan Police stopped the

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ISN #061
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bus he was traveling on and arrested him. The Pakistani Police asked the detainee about Mr. Belgin and his relation with the detainee and then turned him over to Americans who transferred him to Bagram Airbase for further travel to Guantanamo Bay, Cuba. Tribunal had to look to the detainee's sworn statement and classified exhibits for support of the Unclassified Summary of Evidence.

b. Essentially the only unclassified evidence the Tribunal had to consider was the detainee's testimony and the affidavits submitted by the detainee's mother and habeas attorney. A summarized transcript of the detainee's testimony is attached as CSRT Decision Report Enclosure (3). He denied being a member of al Qaida, but confirmed that he went to Pakistan to study the Koran at the advice of a Jama'at-Al-Tabliq Imam. The Tribunal found certain aspects of the detainee's testimony persuasive, but also turned to classified sources for further clarification.

The Tribunal also relied on certain classified evidence in reaching its decision. A discussion of the classified evidence is found in Enclosure (2) to the Combatant Status Review Tribunal Decision Report.

6. Consultations with the CSRT Legal Advisor

No issues arose during the course of this hearing that required consultation with the CSRT legal advisor.

7. Conclusions of the Tribunal

Upon careful review of all the evidence presented in this matter, the Tribunal makes the following determinations:

- a. The detainee was mentally and physically capable of participating in the proceeding. No medical or mental health evaluation was deemed necessary.
- b. The detainee understood the Tribunal proceedings. The detainee asked no questions regarding his rights and actively participated in the hearing.
- c. The detainee is properly classified as an enemy combatant. Specifically, he is a member of al Qaida.

8. Dissenting Tribunal Member's report

None. The Tribunal reached a unanimous decision.

Respectfully submitted,



Colonel, USAF
Tribunal President

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Summarized Sworn Detainee Statement

[When the Tribunal President described the Tribunal process to the Detainee, the Translator stated he needed a short recess. During the recess, the first Translator was replaced with another Translator for the Tribunal process. During the recess, the Tribunal President gave the Oath to the new Translator.]

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

Tribunal President: Do you have any questions concerning the Tribunal process?

Detainee: I will wait.

Tribunal President: If you have a question, you may ask it at that time.

[After the Recorder presented the Unclassified Summary and read paragraph 3.a.3: "Detainee is a close association with, and planned to travel to Pakistan with, an individual who later engaged in a suicide bombing. Bilgin possibly is the Elafanurus suicide bomber." The detainee asked the following question:

Detainee: Where are the explosives? What bombs?

[Recorder to Tribunal President:] Sir, I don't believe I can answer in this session.

Tribunal President: I certainly cannot answer because this is the first time I have seen this evidence. It is my understanding that anything remaining concerning this individual (Bilgin) is in the classified session.

Detainee: Should I answer the question now, or later?

Tribunal President: You will have an opportunity in a moment to address this in any matter you would like.

When asked by the Tribunal President if he wanted to make a statement, the detainee stated yes and provided his statement after electing to be sworn. The detainee testifies essentially as follows:

Detainee: I am here because Selcuk Bilgin had bombed somebody? I wasn't aware he had done that. My association with him is not as a terrorist. We exercised together at the gym and played sports. We both raised dogs, and because of this common interest, we became very good friends. Even though he was several years older than me, he was like a big brother. I wasn't aware he had done those things. I don't need friends like that. I am a Muslim from Germany. I didn't start praying until I was eighteen or nineteen years old. My parents are not Muslim and they don't pray. My religion is peaceful. No one

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has the right to kill anyone because they don't pray. If I were a terrorist, I wouldn't have needed to go to Pakistan. For example, if I killed people because they didn't pray, I would have started with my mother and father. They would be the first ones I would have killed, because they didn't pray. I love my mother and father more than anyone. I also have a lot of friends that don't pray. At the time I didn't pray, no one had the right to kill me because of it.

I never supported terrorists and I still don't support terrorism. I just want peace, to be a Muslim, and pray to God. That is the reason I wanted to study Islam from Jamayat Al Tabliq. Now I hear Jamayat Al Tabliq supports terrorism. I never knew that. The Muslims in Germany are peaceful people. They never talked about terrorist acts or that they support terrorism.

I have a lot of German friends that are Christians. If I supported terrorism and killing Christians, I could have done that in Germany. It would have been easier than traveling to Pakistan. My reason for going to Pakistan wasn't to kill anyone or learn about weapons, it was to study Islam. In Germany, Islam was only taught on weekends; therefore, it would take a few years to learn what would only take a month in Pakistan. Turkey and Saudi Arabia also had schools, but they also took longer. I didn't have any connections with any Muslims in Saudi Arabia. The Muslims I knew in Germany talked about the school in Pakistan. Although I didn't know them very well, I believed they studied Islam in Pakistan. That is the reason I went to Pakistan.

When I went to the school in Lahore, I asked if I could study Islam. I was told they would have to ask their leader. His name was (inaudible). I was then told that the leader wasn't in Pakistan; therefore, I couldn't talk to him. I was given a room for the night and food. The next morning, before I left, I was given breakfast. It was the day the war started in Afghanistan with the Americans.

After I left Lahore, I visited Jamayat Al Tabliq in different mosques. In one of the mosques, Mohammad helped me study Islam. He told me he would get me free food. It wasn't really free food. About five people would buy food for the ten to twenty people that were there. The next day, someone else would buy the food the next day.

I don't remember the exact date, but I was in Pakistan four or five weeks before I was put in jail. At that time, I learned a lot about the Koran and how to pray. The Pakistani's pulled me off the bus to talk to me. They told me they wanted to check my citizenship paperwork. I didn't understand what they were saying because they were talking in their native language. They ended up taking me to a room and asking me questions. A man with a turban wanted to know what I was doing in Pakistan. He had asked if I was an American or a journalist. After I told him I was a Turkish citizen living in Germany, he telephoned someone. After asking me several more questions, he took me to a room and told me to relax. I was then told I could use my plane tickets to go home. I explained to them I had a Visa. I asked them why so many questions? I didn't do anything wrong in Pakistan. They told me there wasn't any problems, they just wanted to take me to the

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airport. Later that evening, I was told I had to sleep with the prisoners. I had no choice the police had guns. The next I knew I was put in chains and my eyes were covered. I was taken to a house and put in isolation for approximately one week. After I was interrogated, I was taken back to the underground jail. Later, Americans came and interrogated me. After two days, a mask was placed over my head and I was handed over to the Americans. I was put on a plane and taken somewhere. I was told it was Kandahar, but I wasn't sure. After a few months, they brought me to Cuba.

I didn't do anything wrong in Pakistan nor did I harm anyone in any country. I have never been to America, before or after 11 September. I didn't have any reason to go to Afghanistan. My Visa was issued in Germany to travel to Pakistan not Afghanistan.

(inaudible) told me Selcuk had blew up himself and someone else. I never knew about that and he had never done anything like that before. When I knew Selcuk, he was a good friend of mine. He exercised a lot; he was a nice guy. After Selcuk got married, we didn't spend much time together. He didn't go to the gym as often and I was busy studying art.

A few weeks after I started going to the Mosque to pray, I saw Selcuk at the mosque praying. I told him about my trip to Pakistan. He told me he thought going to Pakistan was a good idea and he wanted to go with me. I never knew he was a terrorist or that he thought about those kinds of things. I am not an expert in Islamic religion, but I know the Koran says if you kill yourself, you will go to hell. That is one reason why I can't support terrorism. Terrorists kill themselves and several others.

My family is in Germany. A terrorist attack could occur there anytime and my parents could be killed. I have never supported terrorism in anyway. I am smart enough to realize terrorism has nothing to do with Islam. I didn't know Jamayat Aj Tabliq supported terrorism because that was never discussed and I never saw anything to indicate they did. I enjoyed living in Germany. I don't hate anyone because of his religion. I have never had problems with Christians or anyone else. Many of my German friends are Christians. We work and eat together.

I have never supported terrorism. I hate terrorist. I am here having lost a few years of my life because of Usama Bin Laden. His beliefs show Islam in the wrong way. I am not angry with Americans. Many Americans died on 11 September in the terrorist attack. I realize the Americans are trying to stop terrorism. I think it is very noble. All countries should do the same thing. Because Usama Bin Laden said he is a Muslim and he has killed many people, several Muslims were arrested. I am a Muslim, but I am not a terrorist. If I could prevent terrorism, I would. Islam is a peaceful religion. It should not be mixed up with terrorism. I don't know why Usama Bin Laden hates certain countries and other religions. Usama Bin Laden wants help from all Muslims. What he is doing has nothing to do with Islam. I am a Muslim, I am fasting, but I don't hate anyone because of his religion. There wasn't a war between America and Saudi Arabia. The

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Americans have a right to defend themselves after the attack by Muslims on 11 September. I am sure 11 September had nothing to do with Islam.

I have never received any military training. The Turkish Army wanted me in the military. I didn't go. I took a few years (inaudible). I don't like the Army. I like doing different jobs. I am not a terrorist and I have never supported terrorism. If any Muslim talked to me about terrorism, I would tell them to their face it was wrong. I would do everything I could to stop them. I don't have any proof to show you, but I didn't harm or kill anyone. I didn't steal anything from anyone.

I went to study in Pakistan at the wrong time. I wasn't aware there was a war going on in Afghanistan. I heard on the news Americans wanted to stop Osama Bin Laden with special teams and mortars or something. I didn't know the war had started. When I traveled to Pakistan the war hadn't started. Even if the war was going on in Afghanistan, it had nothing to do with Pakistan. For over twenty years Turkey has been at war with the PKK. I went to Turkey several times on vacation but knew there were problems, so I returned to Germany. I never saw any fighting in Pakistan. I was nineteen when I took my trip to Pakistan. It was probably the wrong time to go. I didn't know I would get arrested because of my skin color or because I was from Germany.

I hope you will judge me on the truth. I am not an enemy combatant. If I were, I would tell you. Enemy combatants go to jail in their own country. I would be much more comfortable in jail in my country, than I am here. I won't lie just to go to jail in my country. I want my freedom back because I am not a terrorist.

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

Personal Representative: No.

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

Recorder: Yes Sir.

Summarized Answer in Response to the Recorder

Q. You said you did not know that Selcuk Bilgin was a terrorist or involved in suicide bombings. Is that correct?

A. Yes.

Q. How long were the two of you friends?

A. We have been friends since I was sixteen. We were good friends until he got married in 2000. I never knew he experimented with bombs. He never talked about it. We just

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exercised and raised dogs together. While we were in Germany, he never had anything to do with explosives. If he had something to do with explosives after my arrest, I'm sure the German government was aware of it. The German government can verify I wasn't in Germany at the time.

Q. Jamayat Al Tabliq supported you in your travels to further your studies in Islam. Did you know Jamayat Al Tabliq supported terrorism?

A. You asked me two questions right?

Recorder: Beginning with the statement the Jamayat Al Tabliq supported you.

Detainee: The Jamayat Al Tabliq in Germany is not the same as it is in Pakistan. In Germany, they talked about Islam in Pakistan and how beautiful it was over there. They also talk about the big school. They didn't help me go to Pakistan, but they did tell me a lot about the school. So, I decided to go.

Q. While at the school, you were supported with food and lodging?

A. I said before, they didn't support me with food. I slept there only one night. They gave me dinner and breakfast. Everything else I paid for myself.

Q. Are you aware that Jamayat Al Tabliq was associated with or supported terrorism?

A. I didn't know anything about it. I am not saying they aren't terrorists, maybe they are, but I wasn't aware of it.

Summarized Answers in Response to Questions by the Tribunal Members

Q. When you were in Germany, did the Jamayat Al Tabliq have an Imam or a Sheikh?

A. The Jamayat Al Tabliq had a mosque, it is called (inaudible) there is a Imam but he is not a (inaudible). He stayed in a mosque and sat with other groups. There are two different groups in the mosque, the Jamayat Al Tabliq and another group. (inaudible)

Q. Did that Imam have the authority to issue Fatwas?

A. That Imam was young. I don't know if he issued Fatwas or not. I sat with him many times at the mosque and talked, but I never saw him issue a Fatwa.

Q. So you never heard of a Fatwa for Jihad at any of the mosque you prayed at in Germany?

A. I didn't hear anything about it.

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Q. Did the Pakistanis say why they arrested you?

A. They told me at first they just wanted to check my citizenship and they asked me a few questions. They were very nice and said they just wanted to send me back to my country. They said they were going to take me to the airport, but they didn't. They put me in isolation, before turning me over to the Americans.

Q. Did you have something on you that they didn't like? Or did they just pull you off the bus because you looked German? Is that the only reason you can think of?

A. I'm not sure. I couldn't understand them. I looked Irish. They told me they wanted to see my citizenship paperwork. I was asked if I was American or British? I told them I was Turkish, but I lived in Germany. I was then asked if I had any cameras or if I was a journalist? After that, they drove me to another place. They asked me different questions than the Americans. The Americans asked me if I was a terrorist.

Q. Did they ask you if you were al Qaida or Taliban?

A. No. The first time I was asked about al Qaida or the Taliban was by the Americans, in Pakistan.

Q. How long were you in Pakistan?

A. I went there on the third of October. I was arrested during the first days of Ramadan. I know this because I was fasting. Maybe it was the third or fourth day of Ramadan.

Tribunal President: Near the middle of November, the third week.

Q. Did you have your Visa with you when the Pakistanis captured you?

A. Yes. I had it. They may have thrown it away, but I have proof. You can ask the German government. I got my Pakistani Visa from the Pakistani Embassy in Germany. I mentioned during my arrest that my Visa was still good. They said they knew it.

Q. The Pakistanis told you they knew?

A. Yes. They told me they had my passport and citizenship paperwork.

Q. As far as you know, the Pakistanis still have it?

A. Yes.

Q. When you were back in Germany, and talking about Jamayat Al Tabliq. Did you ever become a member of that organization?

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A. No, I wasn't a member. Even though I went to Pakistan, I didn't become a member. I lived with them for a few weeks in different mosques.

Q. When you got to Pakistan, they only let you stay in their school for one night?

A. It was not a school. It was a special (inaudible) protected place. When you went through the gates, the place was large. There was a mosque, a school, and a big library. I didn't study there. They just gave me a room to stay in for one night. It was a big hutta with several rooms. I went to the office to see about studying, but they told me they couldn't help me. After that, I went to the Mosque to pray. While I was there, I went to the office, the hutta and the mosque.

Q. After that, you moved on and went to different mosques around Pakistan?

A. Yes.

Q. You lived with other people and it was a communal living arrangement. One person would buy food one day and someone else would buy food the next day depending on who had money?

A. Pakistan is not an expensive country. Food is very cheap. Two or three people would buy fresh bread and other items. They would store the food until it was gone, then someone else would go buy some more. Everyone bought food.

Q. How many other guys were with you?

A. Ten, sometimes thirty. Never less than ten.

Q. You spent one night at the hotel in the school and the rest of the time

Detainee: Now I remember the name of it. Jamayat Al Tabliq School was called Morul Center. The leaders name was Kaz A (inaudible).

Q. After that one night, the rest of the time, before being taken by the Pakistani authorities, you were moving around the country?

A. Yes, I moved to different mosques until I was arrested. I went to several mosques. I enjoyed seeing different things. I would go to the market, and I enjoyed watching what they did with the cobras. I also studied.

Q. So, you were sightseeing when you weren't studying?

A. I'm not sure what you call it. I would study some and go to the market. In Pakistan, several people who practiced Kung Fu. I saw Ninja and Kung Fu gyms. It was

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interesting because I didn't get to see those things in Germany. I was only nineteen; I couldn't sit in the mosque twenty-four hours a day.

Tribunal member: I would like to talk about Mr. Bilgin for a minute:

Q. You said you were good friends for a while until he got married. You didn't see him very often?

A. Everything about him, from his clothing to his car changed. His wife was very jealous. I didn't see much of him after his marriage because he stopped going to the gym and I started studying and working. Three times a week I worked at a factory and twice a week I went to school. I didn't have much time to go home and relax. I would go from work to the gym. When I got home, it was time to go to sleep. I had to get up early the next morning. On weekends I would go to the mosque. He didn't like to work. His wife worked.

Q. How often did you see him during that time period? Once a week, once a month, or less than that?

A. Sometimes I saw him twice a week, sometimes twice a month.

Q. Just if you ran into him at the gym or something like that?

A. Sometimes at the gym. Usually if I saw him, it was at the gym.

Q. When you decided you were going to Pakistan to study, you saw him in the mosque after you made that decision and you talked to him about it?

A. Yes, I think I saw him on a Friday prayer. He had started going to the mosque to pray. He said he also made the decision to go to Pakistan to study the Koran. He didn't tell me that day, but the next day, during the weekend.

Q. Did he actually go to Pakistan with you?

A. No, I mentioned before we had dogs. Selcuk had a lot of dogs. The dogs are only loyal to their owners. If the dogs get loose in the city, they are likely to harm someone. One day, Selcuk's dogs escaped and one of them bit somebody. In Germany, if a dog bites someone, the owner is liable. I didn't know it, but Selcuk hadn't paid anything. When we were at the Frankfurt airport, passport control, the German police checked their computers and told Selcuk he had to pay the fine. I don't remember the amount he owed. Selcuk was told he had to pay it before he could leave Germany. Selcuk asked me if I had the money to pay the bill? I told him I didn't. They kept his passport and took him to another room. The police asked me if I was going to stay with Selcuk, or if I was going to leave. I said I was leaving. That was the last time I saw Selcuk. At that time, I didn't know he was involved in terrorism.

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Q. Did you ever travel to Afghanistan when you were in Pakistan?

A. I never went to Afghanistan. I didn't even think about it. If I were going to Afghanistan, I would have got a Visa while I was in Germany. If you had my passport, you verify I had a two month Visa for Pakistan. I didn't have a Visa for Afghanistan.

Q. How long did you intend to stay in Pakistan?

A. When I left Germany, I planned on staying a month, or maybe a little longer. Since things with the school didn't work out in Pakistan, it took a bit longer. I was there for about four or five weeks. I was planning on returning to Germany because I had gotten married in Turkey, and I wanted to take my wife to Germany for another ceremony.

Tribunal President: You got there on the third of October, and you were detained approximately on the third or fourth day of Ramadan. That would have been about the twentieth of November. So, that was almost two months that you were in Pakistan. Ramadan started on the sixteenth of November that year.

A. I said before I don't remember the exact time. I may have made a mistake by about one or two weeks.

Tribunal President: It's okay, I understand.

[Tribunal President asked if the Detainee had any further evidence to present to the Tribunal]

Detainee: I want to know if I have to stay here, or if I can go home?

[The Tribunal President explained the process to the Detainee]

Detainee: If I go back home, I will prove that I am innocent. If I learn of any terrorist groups or plots, I will notify the German authorities to show them I don't support terrorism, so I can sleep well.

Q. Personal Representative, do you have any other evidence to present to this Tribunal?

A. No, Sir.

[The Tribunal was reconvened by the President to state for the record the Translator's name and to explain the Translator had taken the Oath during the recess when he took over. The Oath was taken outside of the Tribunal room, because at the time, the press and the Detainees were in the Tribunal room.]

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DETAINEE ELECTION FORM

Date: 28 Sep 04

Start Time: 0805

End Time: 0845

ISN#: 061

Personal Representative: [REDACTED] MAJOR, USAF
(Name/Rank)

Translator Required? IN CASE Language? TURKISH/ENGLISH

CSRT Procedure Read to Detainee or Written Copy Read by Detainee? NO

Detainee Election:

- Wants to Participate in Tribunal
- Affirmatively Declines to Participate in Tribunal
- Uncooperative or Unresponsive

Personal Representative Comments:

Detainee wants to participate and make an oral statement

Detainee did not request any witnesses.

Detainee speaks sufficient English but occasionally uses translator for words that he does not understand.

Personal Representative: [REDACTED]

Exhibit D-a

Duplicate of 700020

700173A

DMO Exhibit 11
Duplicate of 700041-043

700174-176

DMO Exhibit 12
Duplicate of 700046-049

700177-180

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FEDERAL BUREAU OF INVESTIGATION

Date of

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03/20/2002

On 19 Mar 02, [REDACTED] interviewed MURAT KURNAZ. MURAT KURNAZ was advised as to the nature of the interview and the identity of the interviewing agents. Prior to any questioning, MURAT KURNAZ'S handcuffs were removed and he was asked about the conditions and his treatment within the camp to which he responded that the conditions were good and he was being treated fairly, however, he missed his home.

MURAT KURNAZ provided the following information pertaining to members of his family:

[REDACTED] (Father) approximately 50 years of age

[REDACTED] (Mother)

[REDACTED] (Brother), 13 years of age

[REDACTED] (Brother) 5 years of age

MURAT KURNAZ stated he lived in Bremen, Germany with his family and had lived there all his life. He identified he attended the Kubra (Roma) Mosque with his father and believes the Imam's name was [REDACTED]

MURAT KURNAZ provided the following information about his wife:

[REDACTED] (Maiden Name: [REDACTED], from Turkey and born 1981.

MURAT KURNAZ identified his wife lived in Turkey and planned to travel to Germany in December, 2001 to be with him. MURAT KURNAZ explained her delay in being with him was due to her not being a German citizen and she would be required to apply for various papers prior to traveling to Germany to stay with him.

MURAT KURNAZ identified he lived a typical life as a teenager, attending various dance clubs and other activities with his friends, however, wanted something more and began looking further into his religion. He stated he began attending the Mosque and praying more frequently and after getting married during the summer of 2001, he decided to travel to Pakistan (PK) to learn Arabic and more about Islam.

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Guantanamo Bay

19 Mar 02

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DMO Exhibit 13

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[REDACTED]

Murat Kurnaz

19 Mar 02

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MURAT KURNAZ stated his father would take him and his brothers to the [REDACTED] Masque and identified the Imam as [REDACTED]. It was at this Masque that he met individuals from the JAMAYAT TABLIQ. He indicated that these people would go to his Masque about once a month for a six month period prior to him departing for PK. The group consisted of about 4-5 males who would preach and engage various members in conversation. MURAT KURNAZ indicated that he provided his name, his address and telephone number to members of the JAMAYAT TABLIQ. Two members of the organization were described as follows:

[REDACTED], Male Pakistani, approximately 40-45 years of age, NFI.
[REDACTED], a Turkish male, 17-18 years of age.

Both [REDACTED] are believed to be from the area [REDACTED].

KURNAZ also indicated the JAMAYAT TABLIQ to be associated with a redical Turkish group known as FAZILET Party from Neustadt Bremen, Germany.

Sometime near the end of July, 2001, MURAT KURNAZ and [REDACTED] from Bremen, Germany, planned to travel to PK. On October 3, 2001 both KURNAZ and [REDACTED] attempted to depart the Frankfurt, Germany airport for PK, however, [REDACTED] was stopped, questioned and detained concerning various unpaid legal fees. KURNAZ was then forced to travel to PK alone. He planned on staying for one and a half to two months.

MORAT KURNAZ identified he did not discuss his planned trip to PK with either his parents or persons from his masque. KURNAZ stated his family would be concerned of him losing his job.

KURNAZ stated he was not associated with the JAMAYAT TABLIQ or the FAZILET Party yet throughout his travels through PK he continued to seek help from persons affiliated with JAMAYAT TABLIQ.

During his flight to Karachi, he met an individual named [REDACTED] on the plane who then gave him his telephone number, [REDACTED] convinced KURNAZ to travel to Islamabad, which was where [REDACTED] resided.

KURNAZ stated he stayed in various guesthouses in Islamabad for approximately 5 days. During the five days, he attempted to contact [REDACTED] via telephone, about 5-6 times, however, was unsuccessful. KURNAZ was unable to recall the telephone number of [REDACTED] at this time.

While in ISLAMABAD, he overheard some English speaking persons that they were associated with JAMAYAT TABLIQ. They informed KURNAZ that

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[Redacted]

Murat Kurnaz

19 Mar 02

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they would travel from masque to masque staying at each for weeks at a time.

KURNAZ then traveled to LAHORE, Pakistan where he met an individual named [Redacted], who was in charge of the school and masque. He indicated that he would help KURNAZ to get work and go to school. He was told to return the following day for an answer concerning his acceptance. Upon his return the following day, he was informed that [Redacted] was not currently in Pakistan and was unable to stay at the facility. KURNAZ was then taken by taxi to a guesthouse where he stayed for several days. However, during that time again KURNAZ requested to enter the schooling facility however, was denied.

KURNAZ stated that personnel at the school were suspicious of him due to his European features (Blond hair and blue eye color) and openly suspected him of working for the newspaper.

KURNAZ then traveled by bus to Karachi where he planned to fly back to Germany. He stayed at a masque located near the airport, however, decided to stay longer in Pakistan. He then indicated that he stayed at approximately 4 masques during a 2-3 week time period.

MURAT KURNAZ met a group consisting of about 7 people and were affiliated with the JAMAYAT TABLIQ, of which he was able to recall the following persons:

- [Redacted] NFI
- [Redacted] NFI

The group provided him with an address of a masque located in Islamabad. KURNAZ decided to travel to that Masque where he planned to stay. He then traveled by taxi to Islamabad and to the masque.

While at the masque, he met an individual named [Redacted] who he identified as spoke English very well, and was from PK. While in Islamabad he stayed at three different masques.

[Redacted] requested KURNAZ to travel with him to Peshawar, PK who informed he was going there to teach the Quran. They stayed at an unidentified masque in Peshawar for two days. [Redacted] then left KURNAZ for about three days to visit his family, however, upon his return requested KURNAZ to travel with him via bus to an unspecified location. They traveled, to the unidentified city where they stayed one night at a guesthouse. The next day they boarded a bus to travel back to Pashawar, however, about ten minutes into the trip the bus was stopped by [Redacted] who then arrested KURNAZ. KURNAZ identified [Redacted] was unable to depart the bus to provide assistance to him and that [Redacted] was

FOUO//LES

Or
Page

[Redacted]

Murat Kurnaz

*redaction
in original*

~~FOUO/LES~~

19 Mar 02

4

in possession of his second bag that contained his money and identification.

KURNAZ stated he had no knowledge of the September 11 attacks nor any other attacks against the United States. He also could not provide any information pertaining to Taliban or Al Qaeda members.

KURNAZ did indicate that he would contact the undersigned agents with any information pertaining to any detainees plans of unrest.

~~FOUO/LES~~

700183A

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DMO Exhibit 14
Duplicate of 700032-033

700184-185

~~FOUO/LES~~

FEDERAL BUREAU OF INVESTIGATION

Date of

transcription

Investigation on
File #
by

at

Date dictated

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04/19/2003

On April 15, 2003, MURAT KURNAZ, Internment Serial Number (ISN) US9TY-00061DP, was interviewed at Camp Delta, U.S. Naval Base, Guantanamo Bay, Cuba, by [REDACTED]

KURNAZ advised that he traveled via a local train from Bremen, Germany, to the meeting held by the Jamaat Tabligh (JT). KURNAZ stated the trip took approximately fifteen to thirty minutes as the train made several stops along the way. KURNAZ stated the meeting was not held in Hamburg, Germany. KURNAZ stated he could not recall the name of the city where the meeting was held, but felt that if he could see a map, he could identify it.

KURNAZ advised that the meeting was held in what appeared to be a modern house, with one big room, one small room, and a kitchen. KURNAZ believed the big room could hold as many as one hundred people. KURNAZ stated he could see a river, not further identified, from the back side of the house. KURNAZ stated he believed a member of the JT had the keys to the building, and opened the building for the individuals from Bremen. KURNAZ advised that approximately ten to twelve individuals attended the meeting, some of which traveled by train as he had, and some by car. KURNAZ advised that he stayed for approximately one and a half days at the meeting which he described as more of a religious retreat, as the participants spent time cooking, eating, praying, and talking about Islam. During the night, the participants slept on the floor of the big room. KURNAZ did not believe that the Imam from his mosque in Bremen, attended this meeting.

KURNAZ denied that the JT discussed recruitment for fighting while he was at the meeting. KURNAZ denied ever having received any weapons training when he traveled to Pakistan, and also denied ever having a weapon there. KURNAZ advised the only gun he ever owned, was in Germany, and that it did not shoot projectiles, but instead shot fireworks.

04/15/2003 Guantanamo Bay, Cuba

[REDACTED]
[REDACTED]

0104/19/2003 700186

~~FOUO/LES~~

DMO Exhibit 15
Page 1 of 1

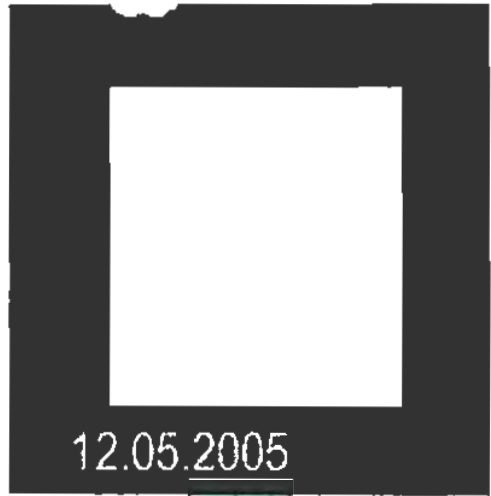
DMO Exhibit 16
Duplicate of 700081-082

700187-187A

DMO Exhibit 17 redacted in full

700188-190

CURRENT AS OF DATE: (S//NF) 10/30/2005
ISN: (S//NF) [REDACTED] 061 [REDACTED]
GTMO ID: [REDACTED]
MP ID: [REDACTED]
REFERENCE NAME: (S//NF) KUNN, MURAT
CURRENT NAME: (S//NF) KARNAZ, MURAT
LANGUAGES: English ([REDACTED])
 German ([REDACTED])
 Turkish ([REDACTED])
CITIZENSHIP: (S//NF) Turkey
ETHNICITY: No Ethnicity Listed
POB/DOB: (S//NF) 3/19/1982
 Bremen Germany No Province
CURRENT CELL: [REDACTED]
ANALYST: [REDACTED]
INTERROGATOR: [REDACTED]
LAST INTERVIEW: [REDACTED]
ADMINISTERED
POLYGRAPH: [REDACTED]
POLYGRAPH DATE: [REDACTED]



Aliases

CLASS	NAME	SOURCE
(S//NF)	KARNAZ, MURAT (Variant)	[REDACTED]
(S//NF)	KUNN, MURAT (Alias)	[REDACTED]
(S//NF)	KURNAZ, MURAT (Variant)	[REDACTED]

DETAINEE HIGHLIGHTS

Age: 23
Date of Birth: 3/19/1982
POB/DOB: Bremen Germany No Province
Capture Event: [REDACTED]

Background: (2005Oct25)ISN-061 is a 23-year old male who claims Turkish citizenship. He speaks relatively good English, although sometimes his speech is garbled. [REDACTED]

[REDACTED]

History:

DETAINEE SUMMARY

None Listed

THREAT ASSESSMENT

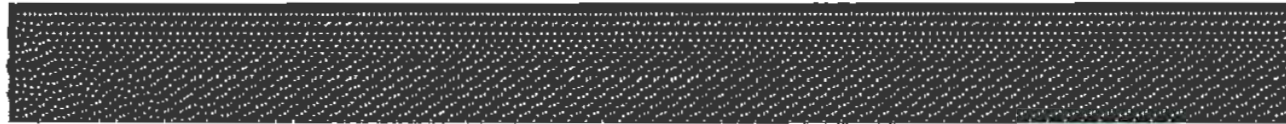
ISN-061 was assessed on 02 Aug 2005 as

RECOMMENDATION FOR RELEASE

Recommendation:

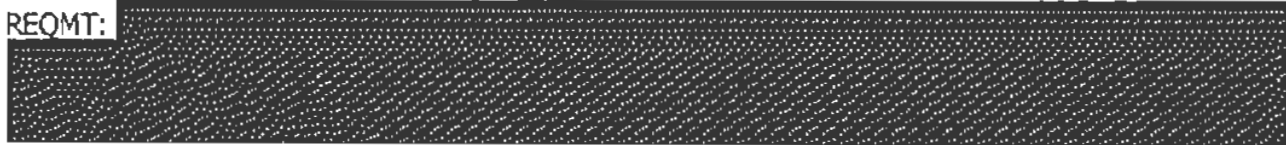
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ANALYST and INTERROGATOR INTELLIGENCE FOCUS

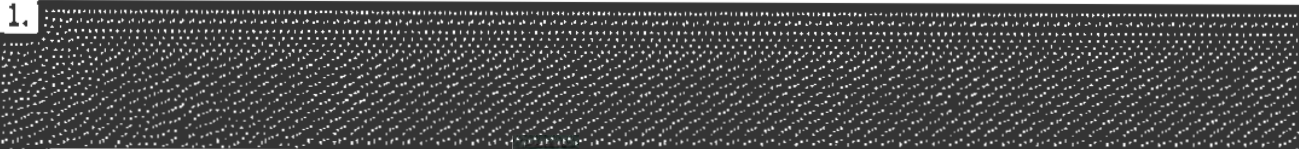


INTEL GAPS:

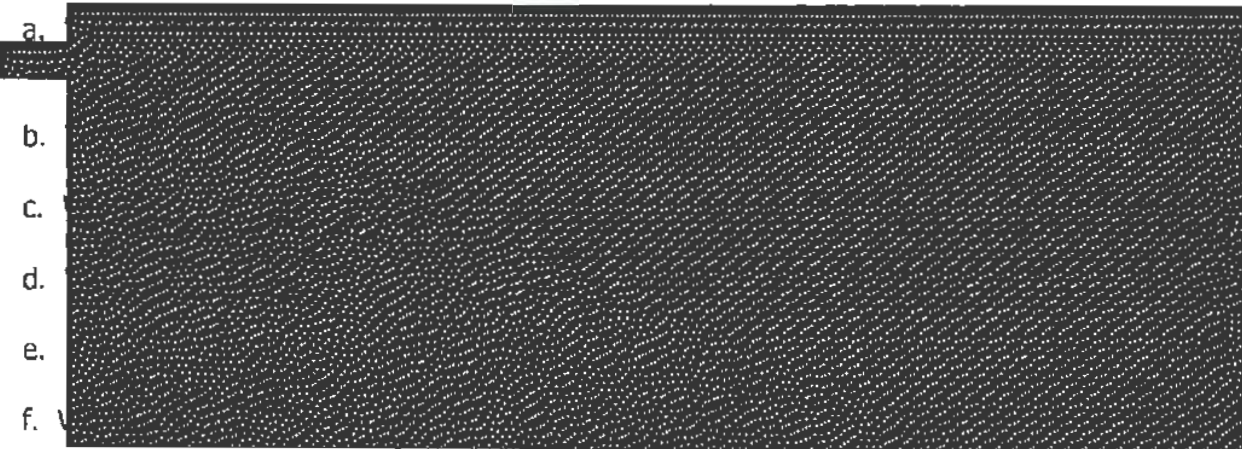
REOMT:



1.



a.



b.

c.

d.

e.

f.

INTREP ACTIVITY

CLASS	DATE/TIME	CATEGORY	EVENT	
S//NF	11:52:00 AM	Fasting	ISN#000061.	FASTING
S//NF	4:47:00 AM	Refused Meal	ISN#000061.	
S//NF	11:57:00 AM	Fasting	ISN#000061.	FASTING
S//NF	11:12:00 AM	Fasting	ISN#000061.	FASTING
S//NF	1:21:00 PM	Fasting	ISN#000061.	FASTING
S//NF	1:08:00 PM	Fasting	ISN#000061.	FASTING
S//NF	1:22:00 PM	Fasting	ISN#000061.	FASTING
S//NF	12:24:00 PM	Fasting	ISN#000061.	FASTING
S//NF	1:05:00 PM	Fasting	ISN#000061.	FASTING

S//NF	(b)(2)	(b)(2)	Detainee Note	ISN#000061 (b)(1) Sec 1.4 A b(1) Sec 1.4 A	
S//NF			Fasting	ISN#000061 (b)(1) Sec 1.4 A	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Refused Meal	ISN#000061. BREAKFAST	REFUSED
S//NF			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A TO (b)(1)	PERM MOVE
S//NF			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A	Refused breakfast:
S//NF			Refused Meal	ISN#000061. lunch.	Detainee did not eat
S//NF			Refused Meal	ISN#000061.	Did not eat breakfast
S//NF			Refused Meal	ISN#000061.	REFUSED MEAL.
S//NF			Refused Medicines	ISN#000061 (b)(1) Sec 1.4 A MEDICINES.	REFUSED
S//NF			Failure to Compy	ISN#000061 (b)(1) Sec 1.4 A b(1) Sec 1.4 A	
S//NF			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A	DETAINEE REFUSED LUNCH.
S//NF			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A	Refused to eat.
S//NF			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A	DETAINEE REFUSED LUNCH.
S//NF			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A (b)(1) there wasn't enough Mayonnaise for the hunger strikers in (b)(1) Sec 1.4 A	Detainee told (b)(1) Sec
S//NF			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A	MORE INTERACTIVE WITH BLOCK NCO THAN USUAL.
S//NF			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A	DETAINEE DID NOT EAT BREAKFAST
S//NF			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A	DETAINEE DID NOT EAT BREAKFAST DUE TO BEING ON THE FASTING LIST.
S//NF			Failure to Compy	ISN#000061 (b)(1) Sec 1.4 A NOT GO BACK INTO BAY WHEN TOLD TO DO SO BY NCO. DETAINEE DID NOT GO BACK IN UNTIL (b)(2) ARRIVED	DETAINEE WOULD

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SI/AF	(b)(2)	(b)(2)	Failure to Comply	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A WHEN HE WAS GIVEN DIRECTIONS TO VACATE (b)(1) Sec HE DID NOT COMPLY. AFTER REPEATED COMMANDS FROM THE (b)(1) Sec 1.4 A HE THEN RESPONDED TO COMMANDS GIVEN TO HIM.
SI/AF			Other	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A, (b)(2), (b)(3) 10 USC § 130b, (b)(6)
SI/AF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A DETAINEE ISN#000061 PUSHED THE DOOR OPENED AND CAME OUT, WHEN ASKED TO GO BACK INTO HIS BAY, DETAINEE WOULD NOT ACKNOWLEDGE MP.
SI/AF			Failure to Comply	ISN#000061. (b)(1) Sec 1.4 A DTY. WAS TOLD TO GET IN HIS ASSIGNED BAY AT (b)(1) Sec 1.4 WENT INSIDE AT (b)(1)
SI/AF			Teaching/Preaching	ISN#000061. (b)(1) Sec 1.4 A DETAINEE PREACHING AFTER PRAYER
SI/AF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A (b)(2), (b)(3); 10 USC § 130b, (b)(6), (b)(1) Sec 1.4 A
SI/AF			Other	ISN#000061. (b)(1) Sec 1.4 A DETAINEE REFUSED WATER BOTTLE. (b)(2), (b)(3); 10 USC § 130b, (b)(6)
SI/AF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A EARLY MORNING MED PASS
SI/AF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A REFUSED LUNCH MEAL. ISN#000061 ATE FOOD THAT HABEAS BROUGHT.
SI/AF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A REFUSED MORNING MEAL.
SI/AF			Refused Shower	ISN#000061. (b)(1) Sec 1.4 A

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S//NF	(b)(2)	(b)(2)	Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	REFUSED MORNING
S//NF			Detainee Note	ISN#000061.		REFUSED MEDS
S//NF			Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	CAME ON THE BLOCK TO ESCORT [REDACTED] TO MEDICAL. HE REFUSED TO GO STATING HE DOES NOT NEED TO SEE THE DOCTOR FOR MOTRIN AND BENADRYL
S//NF			Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	REFUSED MEDICATION FROM MED4. [REDACTED]
S//NF			Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	REFUSED MORNING MEDS
S//NF			Refused Medicines	ISN#000061.		
S//NF			Refused Medicines	ISN#000061.		MORNING MED PASS
S//NF			Refused Medicines	ISN#000061.		DETAINEE REFUSED MEDS.
S//NF			Refused Medicines	ISN#000061.		REFUSED MEDICATION, WITNESSED BY [REDACTED] BY [REDACTED]
S//NF			Leading Prayer/PT	ISN#000061.	(b)(1) Sec 1 4 A	
S//NF			Refused Medicines	ISN#000061.		
S//NF			Other	ISN#000061.	(b)(2)	DETAINEE WAS TALKING TO [REDACTED] ABOUT THE WEATHER [REDACTED]
S//NF			Leading Prayer/PT	ISN#000061.	(b)(1) Sec 1 4 A	[REDACTED]
S//NF			Leading Prayer/PT	ISN#000061.	(b)(1) Sec 1 4 A	LEADING PRAYER WITNESSED AND ENTERED BY [REDACTED]
S//NF			Leading Prayer/PT	ISN#000061.	(b)(1) Sec 1 4 A	DETAINEE LEADING PRAYER. OBSERVED AND ENTERED BY [REDACTED]
S//NF			Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	REFUSED MEDICATION [REDACTED]
S//NF			Detainee Note	ISN#000061.	(b)(1) Sec 1 4 A	READING POSTERS IN REC YARD
S//NF			Detainee Note	ISN#000061.	(b)(1) Sec 1 4 A	[REDACTED]
S//NF			Detainee Note	ISN#000061.	(b)(1) Sec 1 4 A	WHILE IN THE REC YARD DETAINEE WAS READING THE REC YARD POSTERS AND DISCUSSING THEM WITH [REDACTED]
S//NF			Refused Medicines	ISN#000061.	(b)(1) Sec 1 4 A	REFUSED MEDS
S//NF			Refused Medicines	ISN#000061.		REFUSED MEDS
S//NF			Refused Shower	ISN#000061.		REFUSED SHOWER BUT WENT TO REC YARD

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SI/AF	(b)(2)	(b)(2)	Other	ISN#000061. (b)(1) Sec 1.4 A REC. (b)(1) Sec 1.4 A	DETAINEE REFUSED
SI/AF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	
SI/AF			Refused Medicines	ISN#000061.	REFUSED AM MEDS.
SI/AF			Leading Prayer/PT	ISN#000061. 000061 LEADING PRAYER	DETAINEE ISN#
SI/AF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE ISN#
SI/AF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A	LEADING PRAYER. OBSERVED AND ENTERED BY (b)(2),(b)(3):10 ICC
SI/AF			Failure to Comply	ISN#000061. (b)(1) Sec 1.4 A DETAINEE (b)(1) (ISN#000061) TO STOP WALKING SO THAT THE OTHER MP COULD GET A HOLD ONTO THE DETAINEES RESTRAINS DETAINEE (b)(1) CONTINUED TO WALK AND PULL THE MP ARM WHO WAS HOLDING ONTO THE DETAINEES RESTRAINTS THROUGH THE BEANHOLE, THEN DETAINEE PROCEED TO CALL THE MP STUPID AND TOLD THE MP THAT HE DID NOT KNOW HOW TO DO HIS JOB. REPORTED BY (b)(2),(b)(3):10 USC	WHEN MP TOLD
SI/AF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED SHAMPOO, STATED THAT IT WAS NOT ENOUGH
SI/AF			Other	ISN#000061. (b)(1) Sec 1.4 A	reading poster in rec area.
SI/AF			Other	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 C	
SI/AF			Harassing Guard	ISN#000061. (b)(1) Sec 1.4 A	CALLED BLOCK NCO STUPID MP
SI/AF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A (b)(2),(b)(3):10 USC	REFUSED ONE OF THE TWO MEDICATION PRESCRIBED. DETAINEE STATED TO (b)(2),(b)(3) THAT ITS NOT WORKING. (b)(2), (b)(3)

S//NF	(b)(2)	(b)(2) Other	ISN#000061. (b)(1) Sec 1.4 A TOLD BLOCK MP THAT HE WAS KIND OF FAMOUS IN GERMANY BECAUSE THERE WAS A MADE FOR TV LIFE STORY MADE ABOUT HIS SUCCESS IN TAI KWAN DO. HE DID NOT TELL ME THE NAME OF THE MOVIE BECAUSE IT HAS HIS REAL NAME IN THE TITLE. HE SAYS HIS NAME HERE (MURAT KURNAZ) IS NOT HIS REAL NAME. HE SAID THAT HIS INTERAGATOR HAS BEEN TRYING TO FIND HIS NAME OUT FOR TWO YEARS BUT HE DOES NOT WANT TO TELL HIM BECAUSE THEY WILL GO AND TALK TO ALL HIS FRIENDS IN GERMANY. HE ALSO SAID THAT HE HAS A BIG HOUSE IN TURKEY AND LIKES TO FARM AND RAISE ANIMALS. ALSO ASKED ABOUT NEW STREET BIKES THAT WERE OUT AND IF I RODE MOTORCYLES. HE ALSO STATED THAT HE LIKES AMERICA BETTER THAN GERMANY BECAUSE THERE IS MORE OPEN SPACE. (b)(7) SAID THAT HE USED TO PLAY THE GUITAR AND KEYBOARD AND HAD A BAND IN GERMANY BUT AS SOON AS HE STARTED PRAYING HE STOPPED BECAUSE IT IS AGAINST HIS RELIGION TO LISTEN TO AND PLAY MUSIC. (b)(2)(b)(7)
S//NF		Failure to Compy	ISN#000061. (b)(1) Sec 1.4 A DETAINEE REFUSED TO GIVE TRAY BACK WHEN ASKED SEVERAL TIMES. TOLD MP TO SHUT UP AND GO AWAY. GAVE TRAY BACK 20 MINUTES AFTER HE WAS ASKED TO GIVE IT UP THE FIRST TIME
S//NF		Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A REFUSED MEDS
S//NF		Refused Shower	ISN#000061. REFUSED SHOWER ONLY
S//NF		Detainee Note	ISN#000061. (b)(1) Sec 1.4 C (b)(2),(b)(3): 10 USC §1306.(b)(6),(b)(1) Sec 1.4 C
S//NF		Other	ISN#000061. (b)(1) Sec 1.4 A TOLD GUARD THAT THE WHOLE CAMP DOSE NOT LIKE (b)(2) (b)(2),(b)(6) AND WHAT HAPPENED YESTERDAY (b)(2) FECES THROWING WAS NOT FOR GUARDS AND THAT HE IS SORRY IT HAPPENED , BUT IT WILL CONTINUE TO HAPPEN NO MATTER WHAT (b)(2),(b)(6),(b)(1) Sec 1.4 C
S//NF		Other	(b)(2) KEEPS ASKING THE MPS WHAT THEIR NAMES ARE.

S//NF	(b)(2)	Verbal Commo - Same /Cross Block	TALKING WITH (b)(2) THOUGH IT STATES (b)(2) ONLY KNOWS ENGLISH AND GERMAN AND (b)(2) KNOWS RUSSIAN. IT SOUNDED TO ME LIKE THEY WERE SPEAKING SIMPLE GERMAN WHEN WE WERE SEARCHING FOR THE MISSING BOX PIECES BECAUSE (b)(2) KEPT SAYING WHAT SOUNDED LIKE "SHAU MAL" AND THEN (b)(2) WOULD LOOK FOR HIM AND THINGS LIKE WHAT'S HE DOING IN GERMAN AS WELL (b)(3) TO USC (b)(3) (b)(6)
S//NF		Failure to Compy	DETAINEE HAD SHEET TIED AT THE TOP OF CELL DOING PULL UPS. HE WAS TOLD TO TAKE THE SHEET DOWN, HE REFUSED TO COMPLY IMMEDIATELY, SAID HE WOULD TAKE IT DOWN IN 10MN.
S//NF		Other	DETAINEE LOOKED AT POSTER BOARD IN THE LEFT SIDE RECREATION YARD WITH (b)(2) AND MADE A COMMENT IN A LOW TONE AS TO A WHISPER.
S//NF		Showing Reverance to Another Detainee	WANTED SOG TO MOVE HIS BUDDY FROM (b)(2) (b)(2) BECUASE HE SPEAKS A LANGUAGE SIMILAR TO HIS (GERMAN/TURKISH).
S//NF		Other	DETAINEE WANTS TO BE PUT NEXT TO (b)(2) BECAUSE HE SPEAKS THE SAME LANGUAGE.
S//NF		Extreme Emotion	DETAINEE IN (b)(2) PLUGGED HIS EARS WITH HIS FINGERS WHEN THE NATIONAL ANTHEM WAS PLAYING.
S//NF		(b)(2) Refused Medicines	
S//NF		Other	WAS EXTREMELY HELPFUL TO (b)(2)
S//NF		(b)(2) Refused Shower	REFUSED REC TIME
S//NF		Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	TALKING WITH (b)(2)
S//NF		(b)(2) Refused Medicines	DIDN'T WANT THEM
S//NF		(b)(2) Refused Shower	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Teaching/Preaching	TEACHING TO BLOCK FROM HIS LIBRARY BOOK
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS DURING MORNING MED PASS
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Other	(b)(1) Sec 1.4 C

S//NF	(b)(2)	Other	ASKING ABOUT THE CHILD THAT WAS FOUND IN THE WATERS NINE DAYS AFTER THE TUSNAMI; SPECIFIC QUESTION WAS HOW OLD WAS THE CHILD.
S//NF		(b)(2) Refused Medicines	REFUSED MED'S.
S//NF		(b)(2) Refused Medicines	REFUSED MED'S.
S//NF		ier	ASKED FOR EXTRA FOOD
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Refused Medicines	MIDS
S//NF		Refused Medicines	
S//NF		Other	HAD CONVERSATION WITH THE BLOCK NCO, CONCERNING HIS PAST HISTORY IN GERMANY, BORN AND RAISED, ASKED FAIRNESS FOR BEING DETAINED
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	REFUSED MED PASS
S//NF		Refused Medicines	DETAINEE IN CELL (b)(2) REFUSED MEDICAL TREATMENT FROM MED 5.
S//NF		Other	READ POSTER ON LEFT SIDE OF REC YARD FOR 5 MINUTES.
S//NF		Teaching/Preaching	TEACHING (b)(2) ON HOW TO STRETCH IN THE REC YARD.
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS
S//NF		Showing Reverance to Another Detainee	WANTED MP TO GIVE HIS MAGIZINES TO DETAINEE IN CELL (b)(2) TO LOOK AT WAS DENIED
S//NF		PT in Cell	DETAINEE IS SHOWING OFF HIS ABILITY TO DO "50 PUSHUPS ON [HIS] FINGERTIPS IN 60 SECONDS"
S//NF		(b)(2) Refused Medicines	REFUSED THREE OF HIS MEDS
S//NF		Refused Medicines	
S//NF		Other	DETAINEE ASKING IF HE CAN DO PUSH UP WITH ONE OF THE MP'S, AND SAYING THAT IF HE DOES MORE THEN MP GUARD HE GET MORE FOOD DURING LUNCH.
S//NF		(b)(2) Refused Medicines	DETAINEE REFUSE MEDS
S//NF		(b)(2) Refused Medicines	REFUSED (b)(2) MEDICATION PASS
S//NF		Other	REFUSED MEDS IE FLONASE AND ZANTAC
S//NF		Failure to Compy	AFTER BEING TOLD TO COME OUT OF SHOWER HE REFUSED TO GET SHACKLED. HE WAS TOLD MANY TIMES TO COME OUT OF THE SHOWER AND YET STILL REFUSED. TOTAL TIME ELAPSED IN SHOWER WAS 33MIN.
S//NF		Other	DETAINEE WAS ASKING ABOUT WHO WON THIS YEARS ELECTIONS
S//NF		(b)(2) Refused Medicines	REFUSED (b)(2) MEDS
S//NF		(b)(2) Refused Medicines	

S//NF	(b)(2)	(b)(2) Refused Medicines	
S//NF		Other	NOT PRAYING WITH OTHERS
S//NF		(b)(2) Refused Shower	
S//NF		(b)(2) Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	SPEAKS ENGLISH VERY WELL
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Shower	
S//NF		Refused Shower	
S//NF		Refused Medicines	
S//NF		Refused Meal	
S//NF		Other	THE DETAINEE REFUSED TO COME OUT FOR HIS REC TIME. HE DID SUBMIT TO A CELL SEARCH.
S//NF		(b)(2) Refused Shower	
S//NF		Other	DETAINEE WAS TELLING MP ABOUT WHY CERTAIN WAYS IN THE MUSLIM RELIGION ARE THE WAY THEY ARE.
S//NF		(b)(2) Refused Medicines	
S//NF		Other	REQUESTED LINED PAPER TO WRITE TO LAWYER
S//NF		(b)(2) Refused Shower	(b)(2) REFUSED REC
S//NF		(b)(2) Refused Shower	
S//NF		Refused Medicines	
S//NF		Other	DETAINEE STATES THAT HE IS ILL AND WISHES TO BECOME A NON FASTER. MEDICAL HAS BEEN CONTACTED AND WILL SEE THE DETAINEE AT THE NEXT MED PASS AND WILL MAKE THE DETERMINATION AS TO HOW TO PROCEED.
S//NF		(b)(2) Refused Shower	
S//NF	(b)(2) Refused Medicines		
S//NF	Harassing Guard	CONTINUES TO ASK FOR DOC OR A PHONE TO TALK TO DOC ABOUT HIM GETTING PUNISHMENT FOR HANGING HIS BLANKET ABOVE THE HALF WAY POINT OF HIS CELL. HE WAS TOLD TWICE TO LOWER HIS BLANKET AND HE REFUSED, BOTH THE (b)(2) KNOW OF HIS SITUATION AND DONT WANT TO SPEAK WITH HIM ABOUT IT. THE (b)(2) HAS ALSO SPOKE WITH HIM AND CONCLUDED THE SAME.	
S//NF	(b)(2) Refused Shower		
S//NF	Refused Shower		
S//NF	Refused Shower	DETAINEE ISN 000061 REFUSED SHOWER AND REC	
S//NF	Other	COMPLAINS OF KIDNEY PAIN WHILE EATING	
S//NF	(b)(2) Refused Medicines	REFUSED TB TEST	
S//NF	(b)(2) Refused Medicines		
S//NF	Refused Medicines		
S//NF	Refused Shower		
S//NF	Other	REFUSAL TO GIVE WIEGHT FOR MEDICAL	
S//NF	(b)(2) Refused Medicines	MID-MORNING MEDS	

S//NF	(b)(2)	Other	G10 ISN 061 REQUESTED TO GIVE HIS PRAYER CAP TO (b)(2) HAS BEN WAITING FOR THE CHAPLEN TO BRING ONE BUT HAS NOT RECEAVED IT YET. THE ONE (b)(2) HAS IS TOO SMALL FOR HIM AND HE WILL WAIT FOR A LARGER ONE. SO THE (b)(2) GAVE THE CAP TO (b)(2)
S//NF		Leading Prayer/PT	DETAINEE (b)(2) LEADING AND CALLING OUT TO PRAYER.
S//NF		Harassing Guard	CALLED DETAINEE MAIL CLERK A ASSHOLE.
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	REFUSED TO BE WEIGHED FOR MONTHLY WEIGH-INS
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS BECAUSE HE IS FASTING TODAY.
S//NF		Other	WHILE SEARCHING CELL FOUND A PIECE OF PAPER THAT HAS, MALARIA, NILE VIRUS, AND HEPATITIS WRITTEN ON IT.. WITH SOME OTHER LANGUAGE UNDERNEATH EACH TOPIC
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DETAINEE HAS BEEN PACEING IN HIS CELL FOR THE LAST 3HRS
S//NF		PT in Cell	PRACTICING MARTIAL ARTS, PUNCHING HIS GREEN MAT
S//NF		Extreme Emotion	DETAINEE DID NOT WANT HIS STORM DOORS CLOSED DURING A RAINSTORM.
S//NF		Other	SEEN BY CORPSMAN.
S//NF		Fasting	DETAINEE IS FASTING FOR (b)(2)
S//NF		Teaching/Preaching	TEACHING (b)(2) SOME ENGLISH
S//NF		(b)(2) Refused Medicines	REASON FOR REFUSAL WAS, IT UPSETS HIS STOMACH.
S//NF		Fasting	ASKING TO PASS HIS FOOD OFF TO FASTER
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DETAINEE RECIEVED TORN T-SHIRT DO NOT WRITE HIM UP FOR DESTRUCTION OF GOVERNMENT PROPERTY
S//NF		Other	DETAINEE WANTS TO SEE HIS REPRESENTATIVE PER (b)(2) INSTRUCTION
S//NF		Other	DETAINEE VIOLATED OF HIS RIGHTS BY (b)(3) b)(2), (b)(3) 10 USC § 130b, (b)(6)
S//NF		Other	b)(2), (b)(3) 10 USC § 130b, (b)(6)
S//NF		Other	DETAINEE FLUSHED HIS SQAP WHEN TOLD HE WAS ON CI LOSS
S//NF		Verbal Comma - Same /Cross Block	CROSSBLOCK TO (b)(2)
S//NF		Other	DETAINEE 061 ASKING FOR ESCORT TEAMS FULL REAL NAMES.

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S//NF	(b)(2)	Other	DETAINEE WAS OBSERVED WITH A STRING FROM UNKNOWN ORIGIN USED TO HOLD UP HIS HAIR. NO FUTHER ASSISTANCE WAS NEEDED.
S//NF		Fasting	
S//NF		VIP Visits	CHAPLAINS ASSISTANT SEEN AND PRESENTED PRAYER BEADS TO DETAINEE.
S//NF		Other	ISSUED LIBRARY BOOK
S//NF		PT in Cell	RUNNING IN CELL/PUSHUPS
S//NF		Verbal Commo - Same /Cross Block	(b)(2) HAS BEEN TALKING TO (b)(2) SINCE (b)(2) HRS. (b)(1) Sec 1.4 C.(b)(2)
S//NF		Other	ON OR ABOUT 2145 AS (b)(3) TO USC (b)(1)05 (b)(6) WAS WALKING THE BLOCK (b)(2) #61 WANTED TO TALK TO ME AND AS WE WERE SPEAKING HE ASKED ME ABOUT CAMP 5 I SAID I DID NOT KNOW WHAT HE WAS TALKING ABOUT. HE THEN TOLD ME ALL ABOUT THE CAMP IE WHAT THE WALLS WERE MADE OF AND THE SIZE OF THE CELLS AND THAT IT IS AIR CONDITONED. I ASKED HIM WHERE HE GOT HIS INFO AND HE SAID AN MP TOLD HIM ALL ABOUT CAMP5. HE ALSO (b)(1) Sec 1.4 C
S//NF		Passing notes	PAPER WITH WRITING ON IT WAS FOUND IN DETAINEES PLATE
S//NF		VIP Visits	MEDICAL
S//NF		VIP Visits	CORPSMAN ON MED PASS
S//NF		Other	RECEIVED BOOK
S//NF		PT in Cell	
S//NF		PT in Cell	
S//NF		Other	DETAINE WAS REQUESTING NEW TRAINING BLOCK NCO TO GIVE HIM HIS NAME
S//NF		Other	TOLD ME THAT THE BREAKFAST THIS MORNING WAS VERY GOOD
S//NF		VIP Visits	MEDIC; MEDS
S//NF		(b)(1) Refused Medicines	
S//NF		Other	DETAINEE ASKED BLOCK GUARD SWEEPING WHY ARE YOU DOING THAT WHY ISNT A SPECIALIST DOING THAT DETAINEE STATED YOU ARE A (b)(2) YOU DO NOT SWEEP DETAINEE THEN ASKED IF EVERYONE WORKING WAS (b)(2)
S//NF		Other	DUREING SHIFT CHANGE A PERIMETER SWEEP WAS MADE OF THE BLOCK EXTERIER PIECES OF AN APPLE WERE DISCOVERD OUTSIDE DETAINEE ISN 000061
S//NF		Verbal Commo - Same /Cross Block	TO SOMEONE IN (b)(2)
S//NF		VIP Visits	CORPSMAN ON MED PASS.
S//NF		Other	(b)(1) Sec 1.4 C
S//NF		Other	WAS GIVEN A BOOK (b)(2)

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S//NF	(b)(2)	PT in Cell	
S//NF		Other	REQUESTED TO SPEAK TO (b)(2)
S//NF		PT in Cell	
S//NF		VIP Visits	DETAINEE LOCATED IN (b)(2) RECEIVED A MAGAZINE
S//NF		Requests IITF	WANTS TO GO TO RESERVATION. REQUESTED A SPECIFIC INTERROGATOR (b)(2) (b)(2)
S//NF		Other	RECEIVED BOOK FROM LIBRARIAN
S//NF		Other	WHEN THE MPS INFORMED THE DETAINEE THAT HE WAS GOING TO REC HE QUICKLY COVERED HIMSELF TO USE THE LATRINE AND REMOVED HIS PANTS AND GOT THEM WET. HE REQUESTED THAT HE GO TO SHOWER AND REC WITH ONLY HIS SHORTS AND HIS SHEET. THE DETAINEE STATED THAT HE DID NOT WANT TO GO WITH WET PANTS. THE SOP WAS FOLLOWED AND THE DETAINEE DID NOT GO TO SHOWER AND REC.
S//NF		PT in Cell	
S//NF		Other	(b)(2)
S//NF		Other	WHILE MEDICAL WAS ON THE BLOCK FOR MED PASS (b)(2) REQUESTED THE NAME OF A BOOK FROM THE CORPSMAN. THE "U.S. PHARMACOPIA" THEN MEDICAL AND THE DETAINEE BEGAN DISCUSSING TESTOSTERONE AND HOW THE U.S. DOESNT USE IT. DETAINEE THEN GAVE THE CORPSMAN 2 MEDICAL WORDS TO LOOK UP IN REGARDS TO MEDICATION WITH TESTOSTERONE IN IT. MEDICAL WROTE THEM DOWN AND SAID HED BE BACK LATER WITH THE INFORMATION FOR HIM.
S//NF		Other	WHILE MEDICAL WAS ON THE BLOCK FOR MED PASS (b)(2) REQUESTED THE NAME OF A BOOK FROM THE CORPSMAN. THE "U.S. PHARMACOPIA" THEN MEDICAL AND THE DETAINEE BEGAN DISCUSSING TESTOSTERONE AND HOW THE U.S. DOESNT USE IT. DETAINEE THEN GAVE THE CORPSMAN 2 MEDICAL WORDS TO LOOK UP IN REGARDS TO MEDICATION WITH TESTOSTERONE IN IT. MEDICAL WROTE THEM DOWN AND SAID HED BE BACK LATER WITH THE INFORMATION FOR HIM.
S//NF		(b)(2) Refused Shower	
S//NF	Other	DETAINEE ISSUED A BOOK	
S//NF	PT in Cell	DETAINEE TOLD MP THAT PEOPLE WERE DOING PT IN THERE CELLS AND HE NEEDED TO LOG IT INTO COMPUTER.	

S//NF	(b)(2)	PT in Cell	TOLD MP'S TO GO AHEAD AND WRITE HIM UP FOR HE WAS GOING TO START DOING PUSH-UPS IN HIS CELL
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED (b)(2) MEDS
S//NF		Teaching/Preaching	DETAINEES ARE FACING AND RESPONDING IN (b)(2) DIRECTION WHILE HE PREACHES
S//NF		(b)(2) Refused Medicines	DETAINEE REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Other	ON (b)(2) AT APPROXIMATELY (b)(2) DETAINEE LOCATED IN CELL (b)(2) HAD A PACKAGE OF MRE APPLESAUCE.
S//NF		(b)(2) Refused Shower	
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DT (b)(2) STATED TO MP THAT THE ATTACKS ON 9/11 AGAINST THE WORLD TRADE CENTER BUILDINGS CORRESPOND WITH WHERE IS SAYS IN THE KORAN TO FIGHT AGAINST YOUR INFIDELS IN THE KORAN, DT SAID THAT IT IS BECASUE IT CAN BE FOUND IN THE 9 CHAPTER AND THE ELEVEN VERSE. AND THAT THE WORLD TRADE CENTER HAS 110 STORIES AND THAT IT CAN BE FOUNF ON THE 110 LINE IN THE KORAN IN THIS CHAPTER. DT ALSO STATED TO MP THAT HE KNOWOW THAT THIS CAMP IS ONLY FOR INTERGATONS AND HE WILL GO HOME SOON.
S//NF		Other	HE WAS GIVEN AN NEW WATER BOTTLE.
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	(b)(2) REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	WITH GOLF BLOCK
S//NF		Other	ADVISED HE IS OF TURKISH DECENT, BUT A GERMAN CITIZEN AND THERE ARE 5 MILLION TURKS LIVING IN GERMANY AND IT WILL BE OK BECAUSE I WILL GO HOME SOOM AND HE WILL EITHER GO HOME TOO OR BE HERE A FEW MORE YEARS BECAUSE CUBA IS FOR INTERIGATION AND NOT A REAL JAIL.
S//NF		Verbal Commo - Same /Cross Block	(b)(2) ISN00051 WAS HEARD TALKING ABOUT GEORGE BUSH, WITH DETAINEE IN CELL (b)(2) ISN (b)(2)

S//NF	(b)(2)	Verbal Commo - Same /Cross Block	(b)(2) SN00061 WAS HEARD TALKING ABOUT GEORGE BUSH, WITH DETAINEE IN CELL (b)(2) SN (b)(2)
S//NF		Other	DETAINEE LOCATED IN CELL NUMBER (b)(2) ASKED (b)(2) TO TAKE CERTAIN ITEMS FROM DETAINEE, AND PLACE THEM IN HIS BOX, MP ASKED DETAINEE IF HE WAS OK, AND DETAINEE REPLYED YES. 1 PRAYER CAP, 1 OIL, WERE PLACED INSIDE DETAINEE'S BOX.
S//NF		Other	DURING MORNING COLORS DETAINEE ISN 00061, WAS OBSERVED BY MP, TO BE PLUGGING HIS EARS WITH HIS FINGERS WHILE MUSIC WAS PLAYING.
S//NF		Harassing Guard	ASKED MP IF HE LIKED BASKETBALL. THEN WAS ASKING HOW TALL THE BASKETBALL RIM WAS.
S//NF		Other	DETAINEE IN CELL (b)(2) WAS TELLING DETAINEE IN CELL (b)(2) THAT HE DID NOT HAVE TO GIVE UP HIS (b)(2) AFTER BEING TOLD TO DO SO BY MP.
S//NF		Other	DETAINEE ASK FOR EXTRA FOOD AT EVERY MEAL DETAINEE STATES THAT HE NEEDS DOUBLE PORTION DO TO HIS HEALTH CONDITION
S//NF		Extreme Emotion	(b)(2) IS HAVING BAD DREAMS. ADVISED A BLACK MAN WITH WIERD EYES "INVERTED" COMES INTO HIS DREAMS AND TELLS HIM THE AMERICANS ARE GOING TO KILL HIS SON. PSYC AND INTERPERTER CAME TO THE BLOCK, THE SOLUTION, GIVE HIM SOMETHING TO HELP HIM SLEEP. (b)(2)
S//NF		(b)(2) Refused Meal	CHOW
S//NF		Other	DETAINEE STATED TO THE BLOCK NCO TO BRING HIM A CHOCOLATE MILK SHAKE FROM THE CAFE CARIBE OR A SNICKER. HE FURTHER STATED THAT HE WANTS TWO MRE FOR BREAKFAST.
S//NF		Other	COMPLAINED TO BLOCK NCO THAT THE PEOPLE HERE ARE INNOCENT BECAUSE THEY HAVE NOT BEEN TRIED FOR ANYTHING;HE ALSO COMPLAINED THEY ARE NOT AFFORDED THE RIGHT TO HAVE CONTACT WITH FAMILY MEMBERS AND THEIR CELLS ARE TOO SMALL-HE STATED HE WOULD LIKE MORE ROOM TO EXCERCISE.
S//NF		Harassing Guard	HE WANTED ME TO LET HIM BLOW MY WHISTLE SO HE COULD WAKE EVERYONE UP.
S//NF		Harassing Guard	
S//NF		Other	STATED THAT MPS ON MIDS DID PUSH UPS WITH HIM ON THE TEAR, INFORM THEM THAT (b)(2) IS HEP A,B POS.
S//NF		Other	NOT PRAYING WITH OTHERS
S//NF		(b)(2) Refused Meal	REFUSED MORNING MRE FOR FASTING.
S//NF		Other	FOUND 1 APPLE AND 1 PEAR DURING CELL SEARCH

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S//NF	(b)(2)	Verbal Commo - Same /Cross Block	DETAINEE (b)(2) (61) CROSS BLOCK TALKING TO HIS FRIEND IN (b)(2)
S//NF		Other	(b)(2) ADVISED THAT M.PS FROM OTHER COMPANY ARE GIVEING GATORADE TO THEM FOR CHOW IT WAS FOUND TO BE TRUE
S//NF		(b)(2) Refused Medicines	
S//NF		Other	TOLD MP THE BLOCK IS MAD AT THE MEDIC BECAUSE HE REFUSES TO LISTEN TO THEIR COMPLAINS. THIS WAS AT (b)(2) SICKCALL IS IN THE MORNING NOT IN THE EVENING OF COURSE HE ISN'T GOING TO LISTEN TO THEM.
S//NF		(b)(2) Refused Medicines	
S//NF		Harassing Guard	HARASSING (b)(2) ABOUT SPECIAL MEAL AND FASTING. VERY MUCH UPSET MP ABOUT THE WHOLE THING...
S//NF		Leading Prayer/PT	(b)(2) LEAD PRAYER
S//NF		Verbal Commo - Same /Cross Block	TALKING TO DETAINEE'S IN O-BLOCK
S//NF		Other	LOOKING AT POSTER IN REC FOR A LONG PERIOD OF TIME
S//NF		PT in Cell	
S//NF		Failure to Compy	(b)(2) WAS ADVISED ON SEVERAL TIMES TO TAKE DOWN THE WHITE SHEET TIED TO THE CELL FROM LEFT TO RIGHT WHILE DOING EXERCISES HE DIDNT COMPLY WHEN TOLD (b)(2) TOOK DOWN THE WHITE SHEET WHEN HE DECIDED HE WAS READY.
S//NF		Other	COMPLAINING THAT HE SHOULD GET REGULAR FOOD FROM BLOCK CHOW AND THE SPECIAL MEAL HE IS SAPPOSED TO GET. DOC SAIS MEDICAL DID NOT AUTHORIZE THIS. WHEN WE TOLD HIM HE WAS ONLY GETTING THE SPECIAL MEAL HE SAIS HE WAS GOING TO CAUSE PROBLEM. (b)(2) TALKED TO HIM TO TRY AND DEESCALATE THE SITUATION AND HE CALMED DOWN, FOR NOW. HE SAYS HE HAS BEEN GETTING BOTH MEALS FOR A WHILE NOW AND THAT IS WHY HE IS UPSET.
S//NF		Verbal Commo - Same /Cross Block	TALKING TO (b)(2)
S//NF		Showing Reverance to Another Detainee	WANTED TO PASS ON FOOD (b)(2)
S//NF	Other	DETAINEE STATED THAT HE HEARD OVER THE PA THAT THEY (DOC) WERE SENDING HOME SOME DETAINEES AND THAT THEY WERE GOING TO PARADE THROUGH ALL OF THE BLOCKS TO SAY GOODBYE. DETAINEE HAS ASKED THE BLOCK SGT SEVERAL TIMES IF THIS IS TRUE. BLOCK SGT DENIED ANY KNOWLEDGE OF ANY DETAINEES MOVING ANYWHERE. DETAINEE ASKED IF THERE WERE ANY CAMERAS ON (b)(2) DETAINEE ALSO ASKED IF THERE WAS GOING TO BE A LUNAR ECLIPSE IN A DAY OR TWO.	

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S//NF	(b)(2)	(b) Refused Medicines	REFUSED MEDS
S//NF		Leading Prayer/PT	(b)(2) LEADING PRAYER AND (b)(2) ECHOING PRAYER.
S//NF		Leading Prayer/PT	LEADING PRAYER WITH (b)(2) ECHOING.
S//NF		Leading Prayer/PT	LEADING PRAYER.
S//NF		Leading Prayer/PT	LEADING PRAYER
S//NF		Leading Prayer/PT	(b)(2) WAS LEADING PRAYER WITH (b)(2) ACTING AS REPEATER
S//NF		(b) Refused Medicines	
S//NF		Other	WHILE CONDUCTING SHOWER&REC, HE STATED THAT HE SPOKE MULTIPLE LANGUAGES TO INCLUDE TURKISH, GERMAN, ENGLISH, ARABIC, AND UZBEK
S//NF		VIP Visits	MEDICAL, MEDPASS
S//NF		Leading Prayer/PT	LEAD PRAYER
S//NF		(b)(2) Refused Meal	REFUSE MEAL DUE TO BEING LATE
S//NF		VIP Visits	CORPSMAN, MEDPASS
S//NF		Other	(b)(2) INFORMED US THAT EVERYONE WAS UPSET ABOUT (b)(2) BANGING ON HIS CELL AND THAT EVERYONE WAS GOING TO THROW STUFF AT THE MP GUARDS IF IT WASN'T FIXED
S//NF		Other	DET. IS HIDDING FOOD IN GROIN AREA AND WHEN OUT AT RECREATION HE IS FEEDING THE IGUANAS AND BIRDS. HE REFUSED TO GIVE THE MP ALL HIS CONTRABAND FOOD WHEN ORDERED TO DO SO HE TOSSED IT ALL TO THE IGUANAS.
S//NF		(b)(2) Refused Meal	REFUSED SPECIAL MEAL ADVISED HE WOULD EAT HIS NOON SNACK
S//NF	Refused Meal	REFUSED SPECIAL MEAL	
S//NF	Harassing Guard	ALONG WITH (b)(2) HARASSED THE BNCOIC ABOUT NO RULES, NEW RULES AND OLD RULES. BELIEVES THE BNCOIC IS JUST PLAIN DUMB DUE TO THE INCONSISTANT LIGHTING SITUATION...	
S//NF	Refuses Meals	(b)(2) ASKED ME TO GIVE HIS UNEATEN SPECIAL MEAL TO SOMEONE ELSE. HE WAS NOT SPECIFIC ABOUT WHO.	
S//NF	Other	WHEN PICKING UP TRASH FROM RAMADON SNACK HE DIDN'T EAT HIS APPLE AND REQUESTED THAT I GIVE IT TO SOMEONE ELSE	
S//NF	Other	REFUSED MEAL, SPECIAL	
S//NF	(b)(2) Refused Meal	DETAINEE REFUSED TO EAT HIS SPECIAL MEAL, HOWEVER WANT THE BLOCK NCO TO PASS IT TO ANOTHER DETAINEE. WHICH WAS DENIED, THE DETAINEE SUBSEQUENTLY TURNED THE MEAL OVER TO THE BLOCK NCO WHO LATER THREW IT IN THE TRASH.	

S//NF	(b)(2)	Other	WHILE (b)(2), (b)(3), 10 USC § 130b, (b)(6) WERE PUTTING UP THE FLAPS ON THE CELL WINDOWS (b)(1) Sec 1.4 A, (b)(1) Sec 1.4 C
S//NF		Other	
S//NF		(b)(1) Refused Meal	
S//NF		Harassing Guard	TOLD GUARD THAT IF GUARDS GAVE HIM PROBLEMS THEY WOULD HAVE SHIT ON THEM WHEN THEY LEFT.
S//NF		Other	ON (b)(2) REQUESTED TO SEE THE DUTY OFFICER. WHEN TO (b)(2) ARRIVED (b)(2) INFORMED THE (b)(2) AND THE BLOCK NCO THAT (b)(2) HAD STATED TO THE BLOCK THAT HE HAD A SPOON OR ANOTHER OBJECT AND THAT HE SHAPENED IT AND HE WAS WAITING FOR SHOWER AND EXERCISE TO STAB A GUARD IN THE STOMACH OR THROAT. (b)(2) DID NOT WANT THE OTHER DETAINEES TO KNOW THAT HE WAS TELLING US THIS. (b)(2) ALSO STATED THAT (b)(2) ENCOURAGED ALL DETAINEES TO DO THE SAME BECAUSE IT WOULD MAKE THINGS BETTER.
S//NF		Other	ASKED A GUARD FROM THE (b)(2) WHY THEY ARE NOT (b)(2) NO ANSWER WAS GIVEN TO THE DETAINEE FROM GUARD
S//NF		Other	FOOD CONTRABAND IN CELL CONSISTING OF 2 APPLES AND A ORANGE
S//NF		(b)(1) Refused Meal	REFUSED SIECAL MEAL
S//NF		Banging Cell	HITTING CELL WITH FIST
S//NF		(b)(1) Refused Shower	
S//NF		Other	DETAINEE (b)(2) IS AT (b)(2) BUT HE HAS TWO CUPS IN HIS CELL?
S//NF		(b)(1) Refused Shower	
S//NF		Requasts Interpreter	(b)(2)
S//NF		Other	DETAINEE STATES THAT IF HE IS NOT ABLE TO SEE THE COMMANDER THERE IS GOING TO BE BIG PROBLEMS
S//NF		(b)(1) Refused Medicines	REFUSED FLU SHOT
S//NF		Other	WISHES TO TALK TO THE COMMANDER ABOUT THE PROBLEMS GOING ON AT (b)(1) Sec 1.4 A
S//NF		Leading Prayer/PT	LEADING PRAYER
S//NF		VIP Visits	MEDICAL

S//NF	(b)(2)	S//NF	(b)(1) Refused Medicines		
S//NF			PT in Cell		
S//NF			Other	DETAINEE REQUESTED TO SEE (b)(2) IN REF TO MEDS. DETAINEE STATES THAT HE HAS BEEN DENIED MEDS ON NUMEROUS OCCASIONS BY SAME MEDIC ON THE MIDS SHIFT. HE STATES THAT THE MEDIC ALSO DENIES HIM ENSURE WHILE PROVIDING BOTH MEDS AND ENSURE FOR OTHER DETAINEES. (b)(2) STATES THAT THIS IS NOT HIS FIRST TIME MAKING THIS COMPLAINT.	
S//NF			Other	DETAINEE REQUESTS TO SEE DUTY OFFICER IN REFERENCE TO ILLNESS AND STATES THAT HE IS NOT RECEIVING REQUIRED MEDICATION. MEDICAL STATES THAT MEDS HAVE ENDED FOR THIS DETAINEE AND HE MAKES THE SAME REQUEST EACH TIME THEY ENTER THE BLOCK	
S//NF				PT in Cell	
S//NF				(b)(1) Refused Medicines	
S//NF				VIP Visits	MEDS REFUSED DETAINE UNHAPPY
S//NF				VIP Visits	MEDIC ISSUED MEDS DETAINE HAPPY
S//NF				VIP Visits	MEDIC ISSUES MEDS DETAINE HAPPY
S//NF				PT in Cell	
S//NF				VIP Visits	MEDIC: MEDS
S//NF				VIP Visits	MEDIC: MEDS
S//NF				Verbal Commo - Same /Cross Block	(b)(2) WHISPERING BACK AND FORTH TO EACH OTHER
S//NF				Other	REQUESTING TO SEE CD IN PREFERENCE TO (PREVENT BODILY FLUIDS FROM BEING THROWN ON/AT MPS)
S//NF				Other	PACING BACK AND FORTH IN HIS CELL
S//NF				PT in Cell	IS WORKING OUT WITH MAKESHIFT WEIGHTS
S//NF				PT in Cell	
S//NF				Extreme Emotion	PACING IN CELL NON STOP
S//NF				PT in Cell	USING A SHEET AS A PULL UP BAR
S//NF				Other	DETAINEE IS ON THE LIST (b)(2) SPECIAL MEALS BUT HE STATED THAT HE NEVER GETS A SPECIAL MEAL AND THAT HE ALWAYS GETS A REGULAR MEAL HE SAYS THAT HE KNOWS NOTHING ABOUT GETTING A MECHANICAL SOFT MEAL FROM NAV HOS.
S//NF			PT in Cell	DETAINEE WAS DOING LUNGES OFF OF BUNK IN CELL	
S//NF			Harassing Guard	CONTINUOUSLY ASKS FOR 'DONKEY' GUARD TO BRING HIM THINGS. SEEMS TO IMPRESS DETAINEES AROUND HIM. TOLD DETAINEE IS WAS RUDE AND WE DONT UNDERSTAND WHY THAT IS SO BAD, NEEDS NEW INSULT.	
S//NF			Hostile Act	TOLD MP, HE WAS 'STUPID' AND 'FUCK YOU'	
S//NF			Verbal Commo - Same /Cross Block	CONVERSING WITH (b)(2) ON FIGHTING AND KICKBOXING STYLES. RECEIVED INSTRUCTIONS FROM (b)(2) ON SAME.	

S//NF	(b)(2)	(b)(2)	Refused Shower	
S//NF		Other	GONE TO ICRC	
S//NF		Other	DAMAGE TO BEANHOLE	
S//NF		Other	REFUSED SHOWER	
S//NF		(b)(2)	Refused Shower	
S//NF			PT in Cell	
S//NF			Refuses Meals	
S//NF		(b)(2)	Refused Meal	
S//NF			Refuses Meals	
S//NF		(b)(2)	Refused Meal	
S//NF			Showing Reverance to Another Detainee	(b)(2) WAS SHOWING HIS AUTHORIZED JIFF MAGAZINE MATERIAL TO (b)(2) WHILE SITTING BELOW THE BUNK
S//NF		(b)(2)	Refused Meal	LUNCH
S//NF		(2)	Refused Meal	
S//NF			Refused Meal	
S//NF			Refused Meal	ATE HIS APPLE
S//NF			Other	WAS TRYING TO GET A MP TO PASS FOOD. HE SAYS THAT IF THEY ARE ON HUNGER STRIKE/FASTING THAT IT IS OK TO PASS FOOD.
S//NF			Hostile Act	WHILE MPS WERE ASKING (b)(2) WHAT THE MIXTURE IN HIS CUP WAS (b)(2) (b)(2) WANTED TO LOOK AT IT. HE THEN STATED THAT IT WAS PROBABLY A BOMB AND IT WOULD BLOW UP AFTER THE MPS TOOK IT OUT OF HIS CELL.
S//NF		(b)(2)	Refused Meal	
S//NF			Refused Meal	
S//NF			Other	DID NOT PRAY WITH BLOCK
S//NF		(b)(2)	Refused Meal	LUNCH
S//NF		(2)	Refused Meal	
S//NF			Refused Meal	
S//NF			Refused Meal	
S//NF			Refused Meal	
S//NF		Refuses Meals	DETAINEE REFUSED CHOW	
S//NF	(b)(2)	Refused Meal	REFUSED CHOW. ON HUNGER STRIKE	
S//NF		Refused Meal	REFUSED LUNCH	
S//NF		Refused Meal	REFUSED BREAKFAST	
S//NF		Refused Meal	REFUSED DINNER, AND SAID THAT HE WAS ON A HUNGER STRIKE	
S//NF	(b)(2)	Refused Meal	DID NOT WANT LUNCH	
S//NF	(2)	Refused Meal	DID NOT WANT TO EAT BREAKFAST	
S//NF		Refused Meal	REFUSED CHOW / HUNGER STRIKE	
S//NF		Refused Meal	REFUSED LUNCH	
S//NF		Other	REFUSED CHOW, BOTH MEALS FOR THE DAY AND TOLD (b)(3): 10 USC (b)(2) TO TELL DOC THAT (b)(2) WAS EATING ALL OF HIS FOOD AND WAS HEALTHY	
S//NF	(b)(2)	Refused Meal	BREAKFAST SERVED	
S//NF		Refuses Meals	DURING CHOW DETAINEE (b)(2) REFUSED TO EAT HIS DINNER BUT ATE HIS APPLE AND ALSO STATED TO MP TO LOG DOWN THAT HE ATE HIS WHOLE DINNER	

S//NF	(b)(2)	Fasting	DURING CHOW DETAINEE (b)(2) REFUSED TO EAT HIS DINNER BUT ATE HIS APPLE AND ALSO STATED TO MP TO LOG DOWN THAT HE ATE HIS WHOLE DINNER
S//NF		Other	(b)(2) TRANSLATED FOR MP TALKING TO (b)(2) IN AN EFFORT TO RETRIEVE CI'S THAT (b)(2) WAS IN POSSESSION OF. (b)(2) COMPLIED AND OFFERED NO RESISTANCE OR COMPLAINTS. (b)(2) WAS VERY HELPFUL.
S//NF		Other	STATED HE IS EATING ONLY FRUIT AT MEALS BECAUSE IT IS RUDE TO EAT IN FRONT OF OTHER DETAINEES THAT ARE ON HUNGER STRIKE. STATED THAT DETAINEES ARE ON HUNGER STRIKE FOR MANY REASONS INCLUDING: SHAVING OF BEARDS AS PUNISHMENT, AND THERE HAVE BEEN NO TRIALS TO DETERMINE WHO IS INNOCENT OR GUILTY, AND INNOCENT PEOPLE ARE BEING HELD HERE.
S//NF		Other	APPLE ONLY FOR LUNCH. HE REQUESTED THAT HE BE ENTERED AS EATING ALL OF HIS FOOD, BECAUSE HIS INTERROGATORS ASK HIM IF HE IS NOT EATING.
S//NF		Other	FRUIT ONLY FOR BREAKFAST
S//NF		(b)(2) Refused Meal	
S//NF		(b)(2) Refused Meal	
S//NF		Refuses Meals	
S//NF		(b)(2) Refused Meal	
S//NF		PT in Cell	DETAINEE DOING PT IN CELL
S//NF		Other	(b)(2) IS CONSTANTLY WALKING AROUND HIS CELL, DETAINEE SEEMS TO BE DISTRAUGHT.
S//NF		PT in Cell	
S//NF		Other	WANTS TO BE TOLD IF (b)(2) DIES WHILE AT MEDICAL
S//NF		Other	COVERED EARS AND PRAYED LOUDLY DURING NATIONAL ANTHEM
S//NF		Other	WANTS TO KNOW IF (b)(2) DIES
S//NF		Other	ASKING HOW MANY DAYS (b)(2) WILL STAY IN THIS BLOCK
S//NF		Showing Reverance to Another Detainee	(b)(2) WANTED TO MAKE SURE WE WOULD TAKE CARE OF (b)(2) WHO HAD FAINTED IN THE REC YARD
S//NF		Verbal Commo - Same /Cross Block	CROSS COMMG WITH (b)(2)
S//NF		Other	SAYS THEY HAVE A REASON FOR THE HUNGER STRIKE, ALSO THAT HE KNOWS OF THREE OTHER DETAINEES THAT WERE ON HUNGER STRIKE AND THAT HE DOESN'T KNOW WHAT HAPPENED TO THEM. HE SAID HE THINKS THAT THEY DIED AND THAT THE CAMP COMMANDER COVERED IT UP.
S//NF		PT In Cell	
S//NF		Verbal Commo - Same /Cross Block	

S/INF	(b)(2)	PT In Cell	
S/INF		(b)(2) Refused Shower	
S/INF		Refused Shower	
S/INF		Verbal Commo - Same /Cross Block	(b)(2) STATES, AFTER GENERAL PAYNE LEAVES THE BLOCK, THAT THE IGUANA OUTSIDE IS WORTH MORE THAN THAT GENERAL.
S/INF		Verbal Commo - Same /Cross Block	(b)(2) WERE ATTEMPTING TO FEED AN IGUANA THEIR CHOW.
S/INF		Other	(b)(2) DID NOT WANT TO BE SINGLED OUT FOR BEING CAUCASIAN.
S/INF		Other	TOLD MPS THAT PRIOR SHIFT (b)(2) TOLD THE DETAINEES THAT IT IS OKAY TO DO MARTIAL ARTS IN THEIR CELLS AND IN THE REC YARD.
S/INF		PT In Cell	
S/INF		Other	FOOT REST ON TOILET IS BROKEN AND HE IS WORRIED THAT HE WILL GET IN TROUBLE IF IT FALLS OFF.
S/INF		(b)(2) Refused Meal	DINNER
S/INF		PT In Cell	JOGGING IN CELL
S/INF		Other	WHILE CONDUCTING A WALK THROUGH AND SECURITY CHECKS OF THE BLOCK DETAINEE (b)(2) ISN 061 STATED THAT MP'S FROM ANOTHER UNIT WERE TAKING PICTURES OF DETAINEES WHILE THEY WERE IN (b)(2) BLOCKS. THE DETAINEE WENT ON TO SAY THAT THEY WERE USING A SMALL CAMERA TO TAKE THE PICTURES. THE DETAINEE SAID THAT THE MP'S HELD THE CAMERA UP TO THE WINDOW OF THE CELL TO TAKE THE PICTURES. DETAINEE ALSO STATED THAT THE SAME MP'S HAVE DONE THIS BEFORE.
S/INF		Leading Prayer/PT	REPEATING PRAYER AFTER IT IS CALLED
S/INF		Other	ASKED ANOTHER MP THAT HE WAS IN AMERICA AND THOUGHT IT WAS BEAUTIFUL AND ASKED THE MP IF HE THOUGHT IS AMERICA WAS BEAUTIFUL. HE STATED HE'S BEEN THERE THREE TIMES. HE ALSO STATED THAT IN THIS WORLD THERE ARE GOOD MP'S AND BAD MP'S.
S/INF		Other	ASKING ABOUT THE U.S., IF IT WAS NICE, HOW LARGE THE CITIES ARE AND HOW MANY PEOPLE, IF THERE ARE ANY GERMANS IN THE U.S.
S/INF		(b)(2) Refused Shower	
S/INF		Other	CROSS BLOCK COMMO WITH (b)(2) AND TOUCHING ANOTHER DETAINEE ON (b)(2)
S/INF		Other	DURING MORNING CHOW THERE WAS A PROBLEM BETWEEN (b)(2) AND AN MP. THE PROBLEM WAS RESOLVED BUT THE DETAINEE EXPLAINED THAT THE DETAINEES ON THIS BLOCK ARE HERE FOR DISCIPLINE AND WOULD HAVE NO PROBLEM SPITTING ON MP'S AND DOING OTHER THINGS.
S/INF		Harassing Guard	HARRASSING FEMALE GAURD LAUGHING AND NOT LISTENING TO COMMANDS
S/INF		PT in Cell	PT IN CELL

S//NF	(b)(2)	Hostile Act	WHILE MEDICAL WERE ASSITING OTHER DETAINEE (b)(2) CALLED MEDICAL: DONKEY
S//NF		Harassing Guard	CONTINUALLY HARASSED GUARDS THROUGH OUT THE SHIFT, LAUGHING AT THEM, TELLING THEM TO WORK, AND SAYING THEY WERE DOING A WOMANS JOB. THIS WAS CONTINUOUS THROUGHOUT THE DAY.
S//NF		Harassing Guard	CONTINUALLY HARASSED GUARDS THROUGH OUT THE SHIFT, LAUGHING AT THEM, TELLING THEM TO WORK, AND SAYING THEY WERE DOING A WOMANS JOB. THIS WAS CONTINUOUS THROUGHOUT THE DAY.
S//NF		Other	(b)(2) ASKED ME AS I PASSED HIS CELL HOW MANY PUSHUPS I DO. I TOLD HIM MANY AND HE ASKED ME IF I WOULD DO PUSHUPS WITH HIM.I TOLD HIM NOW AND CONTINUED WALKING.
S//NF		(b)(2) Refused Shower	
S//NF		PT IN CELL	
S//NF		INTERPRETER	
S//NF		INTERPRETER	
S//NF		TO SEE JIIF	
S//NF		VOCAL - INSIDE BLOCK	ASKING THE GAURDS ABOUT CAMP FOUR
S//NF		INTERPRETER	TURKISH.
S//NF		PT IN CELL	
S//NF		INTERPRETER	
S//NF		REFUSED MEAL	
S//NF		LED PRAYER	
S//NF		LED PRAYER	
S//NF		TO SEE JIIF	
S//NF		REFUSED MEAL	
S//NF		PT IN CELL	
S//NF		GUARD'S ASSESSMENT	
S//NF		FASTING	
S//NF		PT IN CELL	
S//NF		BANGING ON CELL	BANGING ON CELL BECAUSE THE INTERPRETER MISUNDERSTOOD WHAT HE SAID.
S//NF		INCITING DISTURBANCE	
S//NF		OTHER	MRE FOR BREAKFAST
S//NF		VOCAL - INSIDE BLOCK	TOLD THE GUARDS DETAILS OF HIS CAPTURE AND TOLD THEM HE WAS THE WRONG GLY
S//NF		VOCAL - INSIDE BLOCK	SPOKE ON BEHALF OF (b)(2),(b)(6) INFORMED MP THAT (b)(2) WAS HAVING STOMACH PAINS.
S//NF		OTHER NON-HOSTILE ACTION	THREW/SPAT CHEWED APPLE ONTO TIER FLOOR
S//NF		OTHER NON-HOSTILE ACTION	HOARDING FOOD
S//NF		FAILURE TO COMPLY	AT (b)(2) WAS ARGUING WITH MEDICAL ESCORTS AND REFUSED TO GO TO MEDICAL FOR HIS TB MEDICATION.
S//NF		OTHER	WANTS DRAWING MATERIAL.

S//NF	(b)(2)		OTHER	WANTS THE POUND CAKE TAKEN OUT OF THE MRE'S BECAUSE THEY CONTAIN GLYCEROL A FORM OF ALCOHOL.
S//NF			FAILURE TO COMPLY	AT (b)(2) REFUSED TO SHOW ID BAND WHEN ASKED.
S//NF			REFUSED MEAL	
S//NF			OTHER	AT (b)(2) SUBJECT REQUESTS TO SPEAK WITH THE MUSLIM CHAPLAIN. (b)(2) IS NOTIFIED.
S//NF			REFUSED MEAL	AT (b)(2) SUBJECT REFUSED HIS MEAL.
S//NF			REFUSED MEAL	AT (b)(2) REFUSED MEAL.
S//NF			REFUSED MEAL	AT REFUSED MEAL.
S//NF			OTHER HOSTILE ACTION	AT WHILE MOVING FROM (b)(2) THROUGH WATER ON THE MP.
S//NF			OTHER HOSTILE ACTION	AT (b)(2) THREW WATER ON MP.
S//NF			REFUSED MEDICATIONS	
S//NF			OTHER	(b)(2) WANTS TO MAKE A PHONE CALL
S//NF			OTHER NON-HOSTILE ACTION	AFTER EATING HIS BREAKFAST, DETAINEE TORE HIS PLATE INTO ABOUT 15 PIECES. WHEN ASKED WHY HE SAID HE DID IT, HE REPLIED, "I LIKE TO PLAY."
S//NF			MOVEMENT	WANTS TO GET MOVED TO ANOTHER BLOCK.

Two page document classified above the
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the Administrative Review Board

700216-217

700218 (number not used)

[REDACTED] (OARDEC)

From: McGarrah, James M. RADM, OSD [REDACTED]
Sent: Thursday, February 02, 2006 1:17 PM
To: McPalmer, Teresa
Cc: [REDACTED]
Subject: RE: ISN 061 Habeas Info (~~SECRET~~)

~~Classification: SECRET~~
Caveats: NOFORN

Terri,
[REDACTED]

JM

-----Original Message-----

From: McPalmer, Teresa (mailto:[REDACTED])
Sent: Wednesday, February 01, 2006 3:44 PM
To: McGarrah, James (OARDEC); McGarrah, James
Cc: [REDACTED]

Subject: FW: ISN 061 Habeas Info (~~SECRET~~)

~~Classification: SECRET~~
Caveats: NOFORN

Admiral McGarrah,

ISN 061's first ARB was conducted on 4 November 2005. The ARB assessed ISN 061 as [REDACTED] threat and [REDACTED] intelligence value. On 5 January 2006 the DCO decided to further detain ISN 061. During an audit by the OARDEC legal staff, we discovered that ISN 061's attorney's submission to the ARB was not considered by the ARB. The ARB reconvened to consider this material and decided that the addition of that material did not affect their ultimate recommendation in the case.

[REDACTED]

Very respectfully,
Terri McPalmer
CDR, JAGC, USN
OARDEC Legal Advisor

-----Original Message-----

From: [REDACTED]
(mailto:[REDACTED])
Sent: Thursday, January 12, 2006 5:38 PM

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~~FILED WITH
COURT SECURITY OFFICER~~

~~DATE 7/31/2005~~

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re Guantanamo Detainee Cases) Civil Action Nos.) 02-CV-0299 (CKK), 02-CV-0828 (CKK),) 02-CV-1130 (CKK), 04-CV-1135 (ESE),) 04-CV-1136 (JDB), 04-CV-1137 (RMC),) 04-CV-1144 (RWR), 04-CV-1164 (RBW),) 04-CV-1194 (HHK), 04-CV-1227 (RBW),) 04-CV-1254 (HHK))
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MEMORANDUM OPINION DENYING IN PART AND
GRANTING IN PART RESPONDENTS' MOTION TO DISMISS
OR FOR JUDGMENT AS A MATTER OF LAW

These eleven coordinated habeas cases were filed by detainees held as "enemy combatants" at the United States Naval Base at Guantanamo Bay, Cuba. Presently pending is the government's motion to dismiss or for judgment as a matter of law regarding all claims filed by all petitioners, including claims based on the United States Constitution, treaties, statutes, regulations, the common law, and customary international law. Counsel filed numerous briefs addressing issues raised in the motion and argued their positions at a hearing in early December 2004. Upon consideration of all filings submitted in these cases and the arguments made at the hearing, and for the reasons stated below, the Court concludes that the petitioners have stated valid claims under the Fifth Amendment to the United States Constitution and that the procedures implemented by the government to confirm that the petitioners are "enemy combatants" subject to indefinite detention violate the petitioners' rights to due process of law. The Court also holds that at least some of the petitioners have stated valid claims under the Third

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Geneva Convention. Finally, the Court holds that the government is entitled to the dismissal of the petitioners' remaining claims.

Because this Memorandum Opinion references classified material, it is being issued in two versions. The official version is unredacted and is being filed with the Court Security Officer at the U.S. Department of Justice responsible for the management of classified information in these cases. The Court Security Officer will maintain possession of the original, distribute copies to counsel with the appropriate security clearances in accordance with the procedures earlier established in these cases, and ensure that the document is transmitted to the Court of Appeals should an appeal be taken. Classified information in the official version is highlighted in gray to alert the reader to the specific material that may not be released to the public. The other version of the Memorandum Opinion contains redactions of all classified information and, in an abundance of caution, portions of any discussions that might lead to the discovery of classified information. The redacted version is being posted in the electronic docket of the cases and is available for public review.

I. BACKGROUND

In response to the horrific and unprecedented terrorist attacks by al Qaeda against the United States of America on September 11, 2001, Congress passed a joint resolution authorizing the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks . . . , or

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harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." Authorization for Use of Military Force, Pub. L. No. 107-40, § 2(a), 115 Stat. 224 (2001) (hereinafter "AUMF"). In accordance with the AUMF, President George W. Bush ordered the commencement of military operations in Afghanistan against al Qaeda and the Taliban regime, which harbored the terrorist organization. During the course of the military campaign, United States forces took custody of numerous individuals who were actively fighting against allied forces on Afghan soil. Many of these individuals were deemed by military authorities to be "enemy combatants" and, beginning in early 2002, were transferred to facilities at the United States Naval Base at Guantanamo Bay, Cuba, where they continue to be detained by U.S. authorities.

In addition to belligerents captured during the heat of war in Afghanistan, the U.S. authorities are also detaining at Guantanamo Bay pursuant to the AUMF numerous individuals who were captured hundreds or thousands of miles from a battle zone in the traditional sense of that term. For example, detainees at Guantanamo Bay who are presently seeking habeas relief in the United States District Court for the District of Columbia include men who were taken into custody as far away from Afghanistan as Gambia,¹ Zambia,² Bosnia,³ and Thailand.⁴ Some have

¹ Jami] El-Barra and Bisher Al-Rawi, petitioners in El-Barra v. Bush, 04-CV-1144 (RWR).

² Martin Mubanga, petitioner in El-Barra v. Bush, 04-CV-1144 (RWR).

³ Lakhdar Boumediene, Mohammed Nechle, Hadj Boudella, Helkacem Bensayah, Mustafa Ali Idr, and Saber Lahtouar, petitioners in Boumediene v. Bush, 04-CV-1166 (RJI).

⁴ Saifullah Paracha, petitioner in Paracha v. Bush, 04-CV-2022 (PLF).

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already been detained as long as three years³ while others have been captured as recently as September 2004.⁴ Although many of these individuals may never have been close to an actual battlefield and may never have raised conventional arms against the United States or its allies, the military nonetheless has deemed them detainable as "enemy combatants" based on conclusions that they have ties to al Qaeda or other terrorist organizations.

All of the individuals who have been detained at Guantanamo Bay have been categorized to fall within a general class of people the administration calls "enemy combatants." It is the government's position that once someone has been properly designated as such, that person can be held indefinitely until the end of America's war on terrorism or until the military determines on a case by case basis that the particular detainee no longer poses a threat to the United States or its allies. Within the general set of "enemy combatants" is a subset of individuals whom the administration decided to prosecute for war crimes before a military commission established pursuant to a Military Order issued by President Bush on November 13, 2001. *Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism*, 66 Fed. Reg. 57,833 (Nov. 13, 2001). Should individuals be prosecuted and convicted in accordance with the Military Order, they would be subject to sentences with fixed terms of incarceration or other specific penalties.

Since the beginning of the military's detention operations at Guantanamo Bay in early 2002, detainees subject to criminal prosecution have been bestowed with more rights than

³ E.g. the petitioners in *Al Odah v. Bush*, 02-CV-0828 (CKK).

⁴ E.g. Saifullah Paracha in *Paracha v. Bush*, 04-CV-2022 (PLF).

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detainees whom the military did not intend to prosecute formally for war crimes. For example, the military regulations governing the prosecutions of detainees required a formal notice of charges, a presumption of innocence of any crime until proven guilty, a right to counsel, pretrial disclosure to the defense team of exculpatory evidence and of evidence the prosecution intends to use at trial, the right to call reasonably available witnesses, the right to have defense counsel cross-examine prosecution witnesses, the right to have defense counsel attend every portion of the trial proceedings even where classified information is presented, and the right to an open trial with the press present, at least for those portions not involving classified information. See *Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism*, 32 C.F.R. §§ 9.1 et seq. (2005). Although detainees at Guantanamo Bay not subject to prosecution could suffer the same fate as those convicted of war crimes — potentially life in prison, depending on how long America's war on terrorism lasts — they were not given any significant procedural rights to challenge their status as alleged "enemy combatants," at least until relatively recently. From the beginning of 2002 through at least June 2004, the substantial majority of detainees not charged with war crimes were not informed of the bases upon which they were detained, were not permitted access to counsel, were not given a formal opportunity to challenge their "enemy combatant" status, and were alleged to be held virtually incommunicado from the outside world. Whether those individuals deemed "enemy combatants" are entitled under the United States Constitution and other laws to any rights and, if so, the scope of those

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rights is the focus of the government's motion to dismiss and this Memorandum Opinion.⁷

The first of these coordinated cases challenging the legality of the detention of alleged "enemy combatants" at Guantanamo Bay and the terms and conditions of that detention commenced nearly three years ago on February 19, 2002. Rasul v. Bush, 02-CV-0299 (CKK). The action, brought by relatives on behalf of one Australian and two British nationals as their "next friends,"⁸ was styled as a petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2242. The initial relief sought included an order requiring the release of the detainees, an order permitting counsel to meet with the detainees in private and without government monitoring, and an order directing the cessation of interrogations of the detainees during the pendency of litigation. The asserted substantive bases for the requested relief ultimately included the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and

⁷ In a decision issued on November 8, 2004, Judge James Robertson ruled that the procedures for trying Guantanamo detainees for alleged war crimes by military commission were unlawful for failing to comply with the requirements for courts martial set forth in the Uniform Code of Military Justice. Hamdan v. Rumsfeld, 344 F. Supp.2d 152 (D.D.C. 2004). Only one of the detainees in the above-captioned cases has been given notice that he will be tried for war crimes. That detainee, David Hicks, a petitioner in Hicks v. Bush, 02-CV-0299 (CKK), has filed a separate motion for partial summary judgment challenging the legality of the military commission procedures. Pursuant to an order issued in that case on December 15, 2004, resolution of that motion is being held in abeyance pending final resolution of all appeals in Hamdan. This Memorandum Opinion does not address the legality of the military commission proceedings but rather focuses on the issue of the rights of detainees with respect to their classification as "enemy combatants" regardless of whether they have been formally charged with a war crime.

⁸ 28 U.S.C. § 2242 provides that a habeas petition may be brought "by the person for whose relief it is intended or by someone acting in his behalf."

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Duties of Man, and customary international law.

Less than three months after the commencement of Rafiq, the second of these coordinated cases was filed. Al Odah v. Rush, 02-CV-0828 (CKK). The individuals filing suit on behalf of the twelve Kuwaiti detainees in that case did not expressly request release from custody but rather sought judicial enforcement of the detainees' asserted rights to meet with family members, be informed of any charges against them, and have access to the courts or some other impartial tribunal to exonerate themselves of any wrongdoing. The alleged bases for these rights included the Fifth Amendment to the United States Constitution, the Alien Tort Claims Act, and the Administrative Procedure Act.

The government filed a motion to dismiss the two cases, arguing that both of them should be classified as habeas actions and asserting that because all of the detainees were aliens being held outside the sovereign territory of the United States, the District Court should dismiss the actions for lack of jurisdiction to hear their claims. The government's motion relied heavily on Johnson v. Eisentrager, 339 U.S. 763 (1950), a Supreme Court case involving German nationals convicted by a United States military commission sitting in China for acts committed in China after Germany's surrender in World War II. The German nationals were eventually incarcerated in Landsberg prison in Germany and sought habeas relief, claiming their trial, conviction, and imprisonment violated Articles I and III of the United States Constitution, the Fifth Amendment, other laws of the United States, and the Geneva Convention governing the treatment of prisoners of war. The Supreme Court ultimately held that the petitioners in Eisentrager had no standing to file a claim for habeas relief in a United States court.

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In a thoughtful analysis of Eisenberg and its progeny, Judge Colleen Kollar-Kotelly granted the government's motion to dismiss both cases. Rasul v. Bush, 215 F. Supp.2d 55 (D.D.C. 2002). The decision was based on an interpretation that Eisenberg barred claims of any alien seeking to enforce the United States Constitution in a habeas proceeding unless the alien is in custody in sovereign United States territory. Id. at 68. Recognizing that Guantanamo Bay is not part of the sovereign territory of the United States, id. at 69, the District Court dismissed the cases for lack of "jurisdiction to consider the constitutional claims that are presented to the Court for resolution." Id. at 73. After issuing a show cause order as to why an additional pending habeas case filed by a Guantanamo detainee, Habib v. Bush, 02-CV-1130 (CKK), should not be dismissed in light of the decision in Rasul and Al Odah, the District Court also dismissed that case, and all three cases were appealed to the United States Court of Appeals for the District of Columbia Circuit.

On appeal, the D.C. Circuit affirmed the District Court's decisions in all three cases. Al Odah v. United States, 321 F.3d 1134 (D.C. Cir. 2003). Reviewing recent precedent involving aliens and constitutional rights, the Court of Appeals announced, "The law of the circuit now is that a 'foreign entity without property or presence in this country has no constitutional rights, under the due process clause or otherwise.'" Id. at 1141 (citing People's Mojahedin Org. v. Dep't of State, 182 F.3d 17, 22 (D.C. Cir. 1999) and 32 County Sovereignty Comm. v. Dep't of State, 292 F.3d 797, 799 (D.C. Cir. 2002)). "The consequence," the court continued, "is that no court in this country has jurisdiction to grant habeas relief, under 28 U.S.C. § 2241, to the Guantanamo detainees, even if they have not been adjudicated enemies of the

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United States." *Id.* at 1141.

The Supreme Court reversed the D.C. Circuit's decision and held that the District Court did have jurisdiction to hear the detainees' habeas claims. Rasul v. Bush, ___ U.S. ___, 124 S. Ct. 2686 (2004). The majority opinion, issued June 28, 2004, noted several facts that distinguished the Guantanamo detainees from the petitioners in Eisenberger more than fifty years earlier:

(The Guantanamo petitioners) are not nationals of countries at war with the United States, and they deny that they have engaged in or plotted acts of aggression against the United States; they have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing; and for more than two years they have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control.

124 S. Ct. at 2693. Emphasizing that "[b]y the express terms of its agreements with Cuba, the United States exercises 'complete jurisdiction and control' over the Guantanamo Bay Naval Base," and highlighting that the government conceded at oral argument that "the habeas statute would create federal-court jurisdiction over the claims of an American citizen held at the base," the Court concluded, "Aliens held at the base, no less than American citizens, are entitled to invoke the federal courts' authority under [the habeas statute]." 124 S. Ct. at 2696.

The Supreme Court expressly acknowledged that the allegations contained in the petitions for writs of habeas corpus "unquestionably describe 'custody in violation of the Constitution or laws or treaties of the United States'" as required by the habeas statute, 124 S. Ct. at 2698 n.15 (quoting 28 U.S.C. § 2241(c)(3)), and concluded by instructing:

Whether and what further proceedings may become necessary after respondents make their response to the merits of petitioners' claims are matters that we need

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not address now. What is presently at stake is only whether the federal courts have jurisdiction to determine the legality of the Executive's potentially indefinite detention of individuals who claim to be wholly innocent of wrongdoing. Answering that question in the affirmative, we reverse the judgment of the Court of Appeals and remand for the District Court to consider in the first instance the merits of petitioners' claims.

124 S. Ct. at 2699.

On July 7, 2004, nine days after the issuance of the Rasul decision, Deputy Secretary of Defense Paul Wolfowitz issued an Order creating a military tribunal called the Combatant Status Review Tribunal (hereinafter "CSRT") to review the status of each detainee at Guantanamo Bay as an "enemy combatant."⁹ It appears that this is the first formal document to officially define the term "enemy combatant" as used by the respondents. That definition is as follows:

(T)he term "enemy combatant" shall mean an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces.

The Deputy Secretary's Order notes that all Guantanamo detainees were previously determined to be "enemy combatants" through what the Order describes without additional specificity as "multiple levels of review by officers of the Department of Defense." Order at 1. The Order sets forth procedures by which detainees can contest this status before a panel of three commissioned military officers.

The CSRT procedures will be described in more detail below, but in brief, under the terms of the July 7 Order and a July 29, 2004 Memorandum issued by Secretary of the Navy

⁹ The document is attached as Exhibit A to the respondents' motion to dismiss and can also be found at <http://www.defenselink.mil/news/Jul2004/d20040707review.pdf>.

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Gordon England implementing the Order,¹⁰ detainees for the first time have the right to hear the factual bases for their detention, at least to the extent that those facts do not involve information deemed classified by the administration. Detainees also have the right to testify why they contend they should not be considered "enemy combatants" and may present additional evidence they believe might exculpate them, at least to the extent the tribunal finds such evidence relevant and "reasonably available." The detainees do not have a right to counsel in the proceedings, although each is assigned a military officer who serves as a "Personal Representative" to assist the detainee in understanding the process and presenting his case. Formal rules of evidence do not apply, and there is a presumption in favor of the government's conclusion that a detainee is in fact an "enemy combatant." Although the tribunal is free to consider classified evidence supporting a contention that an individual is an "enemy combatant," that individual is not entitled to have access to or know the details of that classified evidence.

The record of the CSRT proceedings, including the tribunal's decision regarding "enemy combatant" status, is reviewed for legal sufficiency by the Staff Judge Advocate for the Convening Authority, the body designated by the Secretary of the Navy to appoint tribunal members and Personal Representatives. After that review, the Staff Judge Advocate makes a recommendation to the Convening Authority, which is then required either to approve the panel's decision or to send the decision back to the panel for further proceedings. It is the government's position that in the event a conclusion by the tribunal that a detainee is an "enemy combatant" is

¹⁰ The Implementing Memorandum is attached as Exhibit B to the motion to dismiss and can also be found at <http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf>.

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affirmed, it is legal to hold the detainee in custody until the war on terrorism has been declared by the President to have concluded or until the President or his designees have determined that the detainee is no longer a threat to national security. If the tribunal finally determines that a detainee should no longer be deemed an "enemy combatant," a written report of the decision is forwarded to the Secretary of Defense or his designee, who is then obligated to contact the Secretary of State for coordination of the transfer of the detainee either to his country of citizenship or elsewhere in accordance with law and U.S. foreign policy.

In the wake of the Supreme Court's decision in Rasul, several new habeas cases were filed on behalf of Guantanamo detainees in addition to those cases that were remanded by the Court as part of Rasul. As of the end of July 2004, thirteen cases involving more than sixty detainees were pending before eight Judges in this District Court. On July 23, 2004, the respondents filed a motion to consolidate all of the cases pending at that time. The motion was denied without prejudice three days later. On August 4, 2004, the respondents filed a motion seeking coordination of legal issues common to all cases. By order dated August 17, 2004, Judge Gladys Kessler on behalf of the Calendar and Case Management Committee granted the motion in part, designating this Judge to coordinate and manage all proceedings in the pending matters and, to the extent necessary, rule on procedural and substantive issues common to the cases. An Executive Session Resolution dated September 15, 2004 further clarified that this Judge would identify and delineate both procedural and substantive issues common to all or some of these cases and, as consented to by the transferring judge in each case, rule on common procedural issues. The Resolution also provided that to the extent additional consent was given by the

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transferring Judges, this Judge would address specified common substantive issues. The Resolution concluded by stating that any Judge who did not agree with any substantive decision made by this Judge could resolve the issue in his or her own case as he or she deemed appropriate. Although issues and motions were transferred to this Judge, the cases themselves have remained before the assigned Judges.

After two informal status conferences discussing, among other issues, the factual bases for the government's detention of the petitioners, this Judge issued a scheduling order requiring the respondents to file responsive pleadings showing cause why writs of habeas corpus and the relief sought by petitioners should not be granted. The order also incorporated the respondents' proposed schedule for the filing of factual returns identifying the specific bases upon which they claim the government is entitled to detain each petitioner at Guantanamo Bay as an "enemy combatant." Although most of the detainees had already been held as "enemy combatants" for more than two years and had been subjected to unspecified "multiple levels of review," the respondents chose to submit as factual support for their detention of the petitioners the records from the CSRT proceedings, which had only commenced in late August or early September 2004. Those factual returns were filed with the Court on a rolling basis as the CSRT proceedings were completed, with the earliest submitted on September 17, 2004 and the latest on December 30, 2004. Because every complete CSRT record contained classified information, respondents filed redacted, unclassified versions on the public record, submitted the full, classified versions for the Court's in camera review, and served on counsel for the petitioners with appropriate security clearances versions containing most of the classified information

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disclosed in the Court's copies but redacting some classified information that respondents alleged would not exculpate the detainees from their "enemy combatant" status.

During the fall, the Court resolved numerous procedural issues common to all cases. Among other matters, the Court ruled that the cases should not be transferred to the Eastern District of Virginia, where the primary respondent, Secretary of Defense Donald Rumsfeld, maintains his office,¹¹ ruled on protective order issues,¹² and granted the petitioners certain rights relating to access to counsel to assist in the litigation of these cases.¹³

On October 4, 2004, the respondents filed their Response to Petitions for Writ of Habeas Corpus and Motion to Dismiss or for Judgment as a Matter of Law in all thirteen cases pending before the Court at that time. Counsel for petitioners filed a joint opposition on November 3, 2004, which was supplemented by additional filings specific to the petitions filed in Al Odah v. United States, 02-CV-0828 (CKK); El-Banna v. Bush, 04-CV-1144 (RWR); and Boumediene v. Bush, 04-CV-1166 (RJI). Respondents filed replies in support of their original motion. The motions to dismiss in eleven of the thirteen cases were transferred by separate orders issued by the assigned Judges in accordance with the procedures set forth for the resolution of substantive

¹¹ Ghorebi v. Bush, 338 F. Supp.2d 91 (D.D.C. 2004).

¹² November 8, 2004 Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, 344 F. Supp.2d 174 (D.D.C. 2004).

¹³ *Id.*

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matters in the September 15, 2004 Executive Resolution.¹⁴ This Court held oral argument for the eleven cases with transferred motions on December 1, 2004. Subsequently, eight more habeas cases were filed on behalf of Guantanamo detainees.¹⁵ Although this Memorandum Opinion addresses issues common to those new cases, counsel in those cases have not yet had the opportunity to fully brief or argue the issues on their own behalf. Accordingly, while the Judges assigned to those cases are free, of course, to adopt the reasoning contained in this Memorandum Opinion in resolving those motions, this Memorandum Opinion technically applies only to the eleven cases contained in the above caption.

II. ANALYSIS

The petitioners in these eleven cases allege that the detention at Guantanamo Bay and the conditions thereof violate a variety of laws. All petitions assert violations of the Fifth Amendment, and a majority claim violations of the Alien Tort Claims Act,¹⁶ the Administrative

¹⁴ As was his prerogative, Judge Richard Leon did not transfer the motions to dismiss in his two Guantanamo cases, Khalid v. Bush, 04-CV-1142 (R JL) and Boumediene v. Bush, 04-CV-1166 (R JL), and this Memorandum Opinion therefore does not apply to those two cases.

¹⁵ Belmar v. Bush, 04-CV-1897 (RMC); Al Oosi v. Bush, 04-CV-1937 (PLF); Paracha v. Bush, 04-CV-2022 (PLF); Al-Magri v. Bush, 04-CV-2035 (GK); Zemiri v. Bush, 04-CV-2046 (CKK); Deehaves v. Bush, 04-CV-2215 (RMC); Murasha v. Bush, 05-CV-0022 (JR); and Abdullah v. Bush, 05-CV-0023 (RWR).

¹⁶ 28 U.S.C. § 1350 (1993).

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Procedure Act,¹⁷ and the Geneva Conventions.¹⁸ In addition, certain petitions allege violations of the Sixth, Eighth, and Fourteenth Amendments; the War Powers Clause;¹⁹ the Suspension Clause;²⁰ Army Regulation 190-8, entitled "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees;" the International Covenant on Civil and Political Rights ("ICCPR");²¹ the American Declaration on the Rights and Duties of Man ("ADRDM");²² the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;²³ the International Labour Organization's Convention 182, Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;²⁴ and customary international law. The respondents contend that none of these provisions constitutes a valid basis for any of the petitioners' claims and seek dismissal of all counts as a matter of law under Fed. R. Civ. P. 12(b)(6) for failing to state a claim upon which relief can be granted. In the alternative, the respondents seek a judgment based on the pleadings pursuant to Fed. R. Civ. P.

¹⁷ 5 U.S.C. §§ 555, 702, 706 (1996).

¹⁸ (Third) Geneva Convention Relative to the Treatment of Prisoners of War of Aug. 12, 1949, 6 U.S.T. 3316; and Fourth Geneva Convention, 1956 WL 54810 (U.S. Treaty), T.I.A.S. No. 3365; 6 U.S.T. 3516.

¹⁹ U.S. Const. art. I, § 8, cl. 11.

²⁰ U.S. Const. art. I, § 9, cl. 2.

²¹ 999 U.N.T.S. 171, 6 I.L.M. 368 (1992), and 102d Cong., 138 Cong. Rec. S4781 (Apr. 2, 1992).

²² O.A.S. Off. Rec. OEA/Ser. LV/L4 Rev. (1965).

²³ S. Treaty Doc. No. 106-37, 2000 WL 33366017.

²⁴ S. Treaty Doc. No. 106-5, 1999 WL 33292717.

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12(c). The respondents have not requested entry of summary judgment pursuant to Fed. R. Civ. P. 56, and they have opposed requests for discovery made by counsel for the petitioners on the ground that those requests are premature at this stage of the proceedings. See, e.g., Respondents' Memorandum in Opposition to Petitioners' Motion for Leave to Take Discovery and For Preservation Order, filed January 12, 2005, at 6.

In addressing a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6), the Court must accept as true all factual allegations contained in a petition and must resolve every factual inference in the petitioner's favor.

Sparrow v. United Air Lines, Inc., 216 F.3d 1111, 1113 (D.C. Cir. 2000). The moving party is entitled to dismissal "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Croxland Properties Ltd. Partnership v. Corcoran, 174 F.3d 213, 215 (D.C. Cir. 1999) (quoting Hishon v. King & Spalding, 467 U.S. 69 (1984)). Similarly, in resolving a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c), the Court must "accept as true the allegations in the opponent's pleadings, and as false all controverted assertions of the movant" and must "accord the benefit of all reasonable inferences to the non-moving party." Haynesworth v. Miller, 820 F.2d 1245, 1249 n.11 (D.C. Cir. 1987).

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A. EXTRATERRITORIAL APPLICATION OF THE CONSTITUTION TO ALIENS

Notwithstanding the Supreme Court's decision in Rasul that the District Court's dismissal of the petitioners' claims was incorrect as a matter of law, the respondents argue in their October 2004 motion that the Rasul decision resolved only whether individuals detained at Guantanamo Bay had the right merely to file in a United States District Court under the habeas statute that they are being detained in violation of the Constitution and other laws. Respondents argue that the decision was silent on the issue of whether the detainees actually possess any underlying substantive rights, and they further contend that earlier Supreme Court precedent and the law of this Circuit make clear that the detainees do not hold any such substantive rights. Accordingly, it is the respondents' position that although Rasul clarified that a detainee has every right to file papers in the Clerk's Office alleging violations of the Constitution, statutes, treaties and other laws, and although the Court has jurisdiction to accept the filing and to consider those papers, the Court must not permit the case to proceed beyond a declaration that no underlying substantive rights exist. While the Court would have welcomed a clearer declaration in the Rasul opinion regarding the specific constitutional and other substantive rights of the petitioners, it does not interpret the Supreme Court's decision as narrowly as the respondents suggest it should. To the contrary, the Court interprets Rasul in conjunction with other precedent, to require the recognition that the detainees at Guantanamo Bay possess enforceable constitutional rights.

The significance and scope of the Rasul decision is best understood after a review of earlier case law addressing the applicability of the Constitution outside of the United States and

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to individuals who are not American citizens. At the end of the nineteenth century, the Supreme Court interpreted the Constitution to have no applicability outside of the United States, even to activities undertaken by the United States government with respect to American citizens. In Rose v. McIntyre, 140 U.S. 453, 464 (1891), a habeas case involving a U.S. citizen convicted of murder by an American consular tribunal in Japan, the Court declared, "By the constitution a government is ordained and established 'for the United States of America,' and not for countries outside of their limits. The guarantees it affords . . . apply only to citizens and others within the United States, or who are brought there for trial for alleged offenses committed elsewhere, and not to residents or temporary sojourners abroad. The constitution can have no operation in another country." 140 U.S. at 464 (citing Cook v. United States 138 U.S. 157, 181 (1891)).

The Supreme Court reexamined this broad declaration beginning a decade later and recognized the potential for a more liberal view of the Constitution's applicability outside of the United States in a line of precedent known as the "Insular Cases." One of the earliest of those cases, Downes v. Bidwell, 182 U.S. 244 (1901), addressed whether the imposition of duties on products from Puerto Rico after it became a U.S. territory was a violation of the Constitution's Uniformity Clause, which requires that "all duties, imposts, and excises shall be uniform throughout the United States." Art. I, § 8, cl. 2. As part of its analysis, the Court held that the "unincorporated" territory of Puerto Rico — meaning a territory not destined for statehood — was not part of the "United States" and that, as a result, the imposition of duties on Puerto Rican goods did not violate the Constitution. In dicta, the Court acknowledged that Congress had traditionally interpreted the Constitution to apply to territories "only when and so far as Congress

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shall so direct," 182 U.S. at 278-79. The Court noted the apprehension of "tranny eminent men" caused by such an interpretation, however, and it described that concern as "a fear lest an unrestrained possession of power on the part of Congress may lead to unjust and oppressive legislation in which the natural rights of territories, or their inhabitants, may be engulfed in a centralized despotism." *Id.* At 280. Significant to the resolution of the cases brought by the Guantanamo detainees, the Court went on to minimize such concern by suggesting that the Constitution prevented Congress from denying inhabitants of unincorporated U.S. territories certain "fundamental" rights, including "the right to personal liberty . . . ; to free access to courts of justice, [and] to due process of law." *Id.* at 282. Because such fundamental rights were not at issue in Downes v. Bidwell, the Court did not address this concept in greater detail at that time.

Three years later, the Court faced more directly the applicability of the Constitution outside of the United States when it resolved whether the defendant in a criminal libel action in a Philippines court was entitled to a trial by jury under Article III and the Sixth Amendment of the U.S. Constitution. Dorr v. United States, 195 U.S. 138 (1904). At the time of the litigation, the United States had control of the Philippines as an unincorporated territory after the conclusion of the Spanish-American War. Congress, however, had enacted legislation expressly exempting application of the U.S. Constitution to the area. The defendant in that case was prosecuted for libel under the previously existing Spanish system and was not permitted a trial by jury. On appeal, the defendant argued that the right to trial by jury was a "fundamental" right guaranteed by the U.S. Constitution and that Congress did not have the power to deny that right by statute. Although the Court ultimately ruled that the Constitution did not require a right to jury trial in the

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Philippines, it did so only after examining the legal traditions employed in the Philippines prior to annexation as a U.S. territory, the significance of the constitutional right asserted, and the ability of the existing system to accept the burdens of applying new constitutional constraints. In reaching its conclusion that a right to trial by jury was not a "fundamental" right guaranteed outside of the United States, the Court emphasized that the legal system pursuant to which the defendant was prosecuted already provided numerous procedural safeguards, including fact finding by judges, a right of appeal, a right to testify, a right to retain counsel, a right to confront witnesses, a right against self-incrimination, and a right to due process. *Id.* at 145. After suggesting that a large majority of the population would be unfit to serve as jurors, the Court further noted that recognizing a fundamental constitutional right to a jury trial might, in fact, "work injustice and provoke disturbance rather than . . . aid the orderly administration of justice." *Id.* at 148.²³

That holding was reaffirmed in a similar criminal case involving a prosecution for libel in Puerto Rico. *Balzac v. People of Porto Rico*, 258 U.S. 298 (1922).²⁴ Like the defendant in *Dorr*, the defendant in the Puerto Rican case claimed his denial of a jury trial violated Article III and the Sixth Amendment of the U.S. Constitution. Unlike the defendant in *Dorr*, however, the defendant in *Balzac* was a United States citizen. The Court rejected that this distinction held any

²³ As a time critics might call less enlightened, the *Dorr* opinion expressed a fear that further expansion of the application of the Constitution might result in requiring "savages" to serve as jurors. *Id.*

²⁴ Citations to most, if not all, insular Cases decided during the period between *Dorr* and *Balzac* can be found in *United States v. Pollard*, 209 F. Supp.2d 525, 539 n.17 (D. Virgin Islands 2002), *rev'd*, 326 F.3d 397 (3rd Cir. 2003).

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significance, reiterating that a right to trial by jury was not a "fundamental" right and emphasizing that U.S. citizens had no constitutional right to a trial by jury in a proceeding outside of the United States. As the Court explained, "It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." 258 U.S. at 309.

A plurality opinion issued by the Supreme Court in Reid v. Covert, 354 U.S. 7 (1957) sharply criticized this portion of the Balzac opinion and argued for the further liberalization of the application of the Constitution outside of the United States. Reid involved two wives charged with the capital murders of their husbands. Both men were soldiers in the United States military and were killed at overseas posts, one in England and the other in Japan. The wives, who were American citizens, were tried and convicted abroad by courts martial under the Uniform Code of Military Justice and subsequently sought habeas relief, arguing that as civilians they were entitled under the Constitution to civilian trials. Initially, a majority of the Court ruled in the Japanese case during the previous term that the guarantees of an indictment by grand jury and subsequent jury trial under the Fifth and Sixth Amendments in a prosecution by the United States government did not apply in foreign lands for acts committed outside the United States. Kinsella v. Krueger, 351 U.S. 470 (1956). Upon further argument and reconsideration the following term, however, the Court overruled its earlier decision, with four Justices subscribing to a plurality opinion and two Justices issuing separate opinions concurring in the result.

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The plurality began its analysis of the issues with the following pronouncement, a marked contrast from the language used a half century earlier in *Ross*:

At the beginning we reject the idea that when the United States acts against citizens abroad it can do so free of the Bill of Rights. The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution. When the Government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land. This is not a novel concept. To the contrary, it is as old as government.

354 U.S. at 5-6 (footnotes omitted). After noting the language of the Fifth Amendment expressly states that "no person" shall be tried for a capital crime without a grand jury indictment and acknowledging that the Sixth Amendment requires that "in all criminal prosecutions" the defendant shall enjoy the right to a speedy and public trial, *id.* at 7, the plurality was critical of the narrower, "fundamental rights" approach taken in the previous *Insular Cases*, at least as applied to U.S. citizens, and explained, "While it has been suggested that only those constitutional rights which are 'fundamental' protect Americans abroad, we can find no warrant, in logic or otherwise, for picking and choosing among the remarkable collection of 'Thou shalt nots' which were explicitly fastened on all departments and agencies of the Federal Government by the Constitution and its Amendments." *Id.* at 8-9. The plurality went on to clarify that the "fundamental" rights approach limiting the full application of the Constitution to territories under U.S. control had been intended to avoid disruption of long established practices and to expedite the carrying out of justice in the insular possessions. *Id.* at 13. Accordingly, the plurality suggested that any further abridgement of constitutional rights under a "fundamental" rights

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approach should not be countenanced. They reasoned, "If our foreign commitments become of such nature that the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes." *Id.* at 14.

In his concurring opinion, Justice Harlan, who had voted to deny habeas relief in the case during the previous term, explained that his change of opinion was based on an increased concern about the fact that the underlying crimes for which the defendants were charged were capital offenses. *Id.* at 65. He was careful to emphasize, however, his belief that the Insular Cases still had "vitality," *id.* at 67, and that the precedent remained "good authority for the proposition that there is no rigid rule that jury trial must always be provided in the trial of an American overseas, if the circumstances are such that trial by jury would be impractical and anomalous." *Id.* at 75 (emphasis in the original). Justice Harlan posited further that the types of constitutional rights that should apply overseas depended on "the particular local setting, the practical necessities, and the possible alternatives." *Id.* Agreeing with what Justice Frankfurter wrote in a separately concurring opinion, Justice Harlan commented that the issue was analogous to a due process inquiry in which the courts must look to the particular circumstances of a particular case to determine what constitutional safeguards should apply. *Id.*

Because of the lack of a five Justice majority in Reid v. Balzac continues to be interpreted as binding authority. Thus, for example, the Fifth Circuit held that a U.S. citizen charged with distribution of cocaine in the United States District Court for the Canal Zone District at Balboa was not entitled to the nonfundamental rights to a grand jury indictment and to a jury that had the

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potential to include military personnel. Government of the Canal Zone v. Scott, 502 F.2d 566, 568 (5th Cir. 1974) ("non-citizens and citizens of the United States resident in such territories are treated alike, since it is the territorial nature of the Canal Zone and not the citizenship of the defendant that is dispositive"). Indeed, although Reid far from settled the issue of the Constitution's application abroad, it certainly did not weaken the long held doctrine that fundamental constitutional rights cannot be denied in territories under the control of the American government, even where the United States technically is not considered "sovereign" and where the claimant is not a United States citizen.

The District of Columbia Circuit so recognized in a case this Court finds to be particularly relevant to the litigation presently under consideration. Ralpho v. Bell, 569 F.2d 607 (D.C. Cir. 1977), required the application of the Fifth Amendment to U.S. government activities in Micronesia, a "Trust Territory" pursuant to a United Nations designation under which the United States acted as administrator. More specifically, the case involved a constitutional challenge to the procedures undertaken by a commission created by Congress to compensate residents who suffered property damage as a result of American military activities against Japan during World War II. The plaintiff in that case owned a home that had been destroyed by the American offensive, and although the commission ultimately awarded compensation, the commission's valuation of the plaintiff's loss was lower than what he had claimed. More significantly, the valuation was based on evidence that the plaintiff was not permitted to examine or rebut. In addressing whether the Due Process Clause of the Fifth Amendment regulated the commission's valuation procedures, the D.C. Circuit expressly recognized that the United States

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was not technically "sovereign" over Micronesia, 569 F.2d at 619 n.71, and noted that the exact scope of the Constitution's foreign reach was a "matter of some controversy," commenting on the criticism in the *Reid* plurality opinion of the more limited "fundamental" rights approach taken in the *Inular* Cases. *Id.* at 618 & n.69. Nonetheless, the court concluded that at a minimum, due process was a "fundamental" right even with respect to property and that "it is settled that 'there cannot exist under the American flag any governmental authority untrammelled by the requirements of due process of law.'" *Id.* at 618-19 (quoting *Galero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663, 669 n.5 (1974)). Thus, the court required the commission to give the plaintiff access to the evidence upon which its decision relied.⁷⁷

The Supreme Court again tried to bring some clarity to the issue of extraterritorial application of the Constitution when it reviewed the legality of the search and seizure by American government officials of items in the Mexican residence of a Mexican citizen charged with various narcotics-related offenses under U.S. law. *United States v. Verdugo-Urquidez*, 494

⁷⁷ At least twice since the *Ralpho* decision, the D.C. Circuit recognized the continuing murkiness of whether the Constitution provides protection to noncitizens abroad in cases involving action by American authorities in locales far from the absolute control of the U.S. Congress. *Sanchez-Espinoza v. Rescan*, 770 F.2d 202 (D.C. Cir. 1985), involved a claim by Nicaraguan citizens and residents that the alleged support of the Contras by American government officials violated Fourth and Fifth Amendment rights. The Court of Appeals found it unnecessary to resolve whether the Constitution applied in Nicaragua by concluding that even if it did, other grounds prevented the plaintiffs from recovering the relief they sought. *Id.* at 208. The second case, *United States v. Yonig*, 859 F.2d 953 (D.C. Cir. 1988), involved the seizure and alleged mistreatment of a Lebanese citizen by FBI agents on a boat off the coast of Cyprus. At his trial in District Court for alleged hijacking, the defendant sought the suppression of a confession he provided while in international waters on the ground that his interrogation violated asserted Fifth Amendment rights. Again, the majority avoided the threshold issue of extraterritorial application of the Constitution by accepting a stipulation between the prosecution and defendant that the Fifth Amendment was applicable. *Id.* at 957.

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U.S. 259 (1990). Citing language from Rid that "the Constitution imposes substantive constraints on the Federal Government, even when it operates abroad," the Court of Appeals for the Ninth Circuit had ruled that the Fourth Amendment required the suppression of the evidence gained through the search, notwithstanding its conclusion that a search warrant obtained in the United States would have had no legal validity in Mexico. 856 F.2d 1214, 1218 (9th Cir. 1988). The Supreme Court reversed and began its analysis with a comparison of the language in the Fourth Amendment with the terminology in the Fifth and Sixth Amendments, noting that the Fourth Amendment is written to apply to "the people" while the Fifth and Sixth Amendments protect "person[s]" and the "accused." 494 U.S. at 265-66. The Court interpreted the linguistic differences as evidence that the drafters of the Fourth Amendment intended it to protect the people of the United States rather than to impose restrictions on the government against nonresident aliens. *Id.* at 266.

Perhaps more significant for purposes of these Guantanamo detainee cases, the majority opinion then addressed the Insular Cases and reaffirmed that in U.S. territories, only "fundamental" constitutional rights are guaranteed. Accordingly, the Court concluded that the ability of noncitizens in foreign countries to invoke Fourth Amendment rights must be even weaker. *Id.* at 268. Citing Johnson v. Eisentrager, 339 U.S. 763 (1950), the Court then declared, "Indeed, we have rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States." 494 U.S. at 269. The Court described its rejection in Eisentrager of the extraterritorial application of the Fifth Amendment as "emphatic," and concluded that if the Fifth Amendment, with the universal term "person," did not apply to aliens

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extraterritorially, then neither should the Fourth Amendment, which applies only to "the people."

Id.

Justice Kennedy joined the majority opinion but also wrote a separate concurring opinion. Minimizing the majority opinion's reliance on the term "the people" as used in the Fourth Amendment, Justice Kennedy preferred to focus on the Insular Cases and *Reid*, giving particular attention to Justice Harlan's concurring opinion. More specifically, Justice Kennedy invoked a contextual due process analysis to resolve the issue, making specific reference to Justice Harlan's comments that there is no rigid and abstract rule that requires Congress to provide all constitutional guarantees overseas where to do so would be "impracticable and anomalous." *Id.* at 277-78 (quoting *Reid*, 354 U.S. at 74). Ultimately, Justice Kennedy concluded that under the facts of the case, it would have been impracticable and anomalous to require the U.S. authorities to obtain a warrant for a search of property in Mexico, citing the lack of Mexican judicial officials to issue such warrants, potentially differing concepts of privacy and what would constitute an "unreasonable" search, and practical difficulties involved in dealing with foreign officials. *Id.* at 278.

So existed the state of relevant constitutional law at the time of Judge Kollar-Kotelly's dismissals of *Rasul*, *Al Odah*, and *Habib*. As a technical matter, her dismissals were not based on a finding that the Guantanamo detainees lacked underlying substantive constitutional rights, although the opinion does make brief references to some of the Insular Cases and to the Supreme Court's reference in *Verdugo-Urquidez* to the lack of extraterritorial Fifth Amendment rights. Rather, the District Court dismissed on the basis that it lacked jurisdiction under the *habeas*

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statute, 28 U.S.C. §§ 2241 and 2242, in light of the Supreme Court's decision in Eisenstrager. In that case, the Supreme Court held that federal courts did not have the authority to entertain the habeas claims of German nationals captured in China, convicted of war crimes by a U.S. military commission in China, and serving their sentences in a Landsberg prison, located in Germany but administered by the U.S. military. The crucial aspect of the Eisenstrager decision, according to Judge Kollar-Kotelly, was its conclusion that habeas relief could not be granted to individuals in custody outside the sovereign territory of the United States. Her opinion emphasized the importance of the conclusion that the Guantanamo Bay Naval Base is not on sovereign United States territory, and rejected the argument made by counsel for the detainees that under Ralpho v. Bell, de facto sovereignty, rather than de jure sovereignty, was sufficient support for habeas jurisdiction. While recognizing that Micronesia, the location at issue in Ralpho, was not de jure sovereign U.S. territory, the District Court concluded that those islands are much more similar in character and status to sovereign territories than Guantanamo Bay is. According to the District Court, "The military base at Guantanamo Bay, Cuba, is nothing remotely akin to a territory of the United States, where the United States provides certain rights to the inhabitants. Rather, the United States merely leases an area of land for use as a naval base." 215 F. Supp.2d at 71.

In reviewing the District Court's decision dismissing the cases for lack of habeas jurisdiction, the D.C. Circuit took a somewhat different approach, relying more heavily than the District Court on an analysis of the substantive constitutional rights upon which the detainees' petitions were based. The D.C. Circuit interpreted Eisenstrager to characterize the right to a writ of habeas corpus as a "subsidiary procedural right that follows from the possession of substantive

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constitutional rights." 321 F.3d at 1140 (quoting Eisenstrager, 339 U.S. at 781). Further noting that Eisenstrager rejected the proposition "that the Fifth Amendment confers rights upon all persons, whatever their nationality, wherever they are located and whatever their offenses," *id.* the Court of Appeals then commented that this language "may be read to mean that the constitutional rights mentioned are not held by aliens outside the sovereign territory of the United States, regardless of whether they are enemy aliens." *Id.* at 1140-41. Invoking the language in Verdugo-Uruidex that Eisenstrager "rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States" and that such rejection in Eisenstrager was "emphatic," the Court of Appeals then noted its previous reliance on Verdugo-Uruidex and Eisenstrager in earlier cases that made clear that "[t]he law of the circuit now is that a 'foreign entity without property' or presence in this country has no constitutional rights, under the due process clause or otherwise." *Id.* at 1141 (quoting People's Mojahedin Org. v. Dep't of State, 182 F.3d 17, 22 (D.C. Cir. 1999), and also citing Harbury v. Deutch, 233 F.3d 596 (D.C. Cir. 2000), *rev'd sub nom. Christopher v. Harbury*, 536 U.S. 403 (2002); Pauling v. McElroy, 278 F.2d 252 (D.C. Cir. 1960); and 32 Country Sovereignty Comm. v. Dep't of State, 292 F.3d 797 (D.C. Cir. 2002)). Emphasizing that Guantanamo Bay was not part of sovereign U.S. territory and rejecting any material significance to the U.S. government's practical control over the area, the court thus concluded in Al Odah:

The consequence is that no court in this country has jurisdiction to grant habeas relief, under 28 U.S.C. § 2241, to the Guantanamo detainees, even if they have not been adjudicated enemies of the United States. We cannot see why, or how, the writ may be made available to aliens abroad when basic constitutional protections are not. This much is at the heart of Eisenstrager. If the Constitution does not entitle the detainees to due process, and it does not, they cannot invoke

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the jurisdiction of our courts to test the constitutionality of the legality of restraints on their liberty. Eisenberger itself directly tied jurisdiction to the extension of constitutional provisions

Id. at 1141.

The D.C. Circuit's decision was reversed in Rasul v. Bush, ___ U.S. ___, 124 S. Ct. 2686 (2004). In reviewing the decision of the Court of Appeals, the majority opinion addressed two grounds upon which a detainee traditionally could assert a right to habeas relief: statutory and constitutional. The Rasul majority interpreted Eisenberger to have focused primarily on the German detainees' lack of a constitutional right to habeas review, and distinguished the material facts upon which that portion of the Eisenberger decision relied from the circumstances concerning the Guantanamo Bay detainees. Among other distinguishing facts, the Rasul opinion emphasized that the Guantanamo Bay detainees were not citizens of countries formally at war with the United States, denied committing any war crimes or other violent acts, were never charged or convicted of wrongdoing, and – most significant to the present motion to dismiss – are imprisoned in “territory over which the United States exercises exclusive jurisdiction and control.” 124 S. Ct. at 2693. Next, Rasul turned to the issue of statutory habeas jurisdiction and ruled that post-Eisenberger precedent required the recognition of statutory jurisdiction even over cases brought by petitioners held outside the territorial jurisdiction of any federal district court. Noting that the habeas statute made no distinction between citizens and aliens held in federal custody, the Court ultimately ruled that “[a]liens held at the base, no less than American citizens, are entitled to invoke the federal courts' authority under § 2241.” Id. at 2696.

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While conceding as they must in light of the Rasul decision that this Court has habeas jurisdiction over these cases, the respondents assert in their current motion to dismiss that the Supreme Court did not grant certiorari to review the D.C. Circuit's decision that the Guantanamo Bay detainees have no underlying constitutional rights. Accordingly, the respondents argue, the D.C. Circuit's pronouncement in Al Odah that the detainees lack substantive rights is still binding on this Court and the portions of the petitions invoking the Constitution must be dismissed for failure to state a claim upon which relief can be granted. Counsel for the petitioners, on the other hand, assert that in upholding this Court's habeas jurisdiction, the Supreme Court also made clear that the Constitution applies to Guantanamo Bay and that the detainees possess substantive constitutional rights. This Court finds the arguments made on behalf of the petitioners in this regard far more persuasive.

As an initial matter, the conclusion that the D.C. Circuit's holding on lack of substantive constitutional rights is no longer the law of the case could be deduced merely from the facts that: (1) the appellate court's opinion emphasized that the existence of habeas jurisdiction and substantive constitutional rights were "directly tied," 321 F.3d at 1141; (2) the appellate court believed Eisenberger applied to the facts of these cases and prevented the detainees from asserting substantive constitutional rights; and (3) the Supreme Court held that habeas jurisdiction did in fact exist and that Eisenberger was inapplicable to these cases. Additionally, and on a more detailed level, careful examination of the specific language used in Rasul reveals an implicit, if not express, mandate to uphold the existence of fundamental rights through application of precedent from the Insular Cases.

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On appeal to the D.C. Circuit, counsel for the petitioners argued for the application of Ralpho v. Bell by challenging the District Court's finding that Guantanamo Bay was simply another naval base on land leased from a foreign sovereign and nowhere near the legal equivalent of a United States territory. 215 F. Supp.2d at 71. The D.C. Circuit rejected the challenge and agreed with the District Court on this point. Although the appellate court conceded that Micronesia, like Guantanamo Bay, was not technically sovereign U.S. territory, it concluded that Ralpho nonetheless did not "justify this court, or any other, to assert habeas corpus jurisdiction at the behest of an alien held at a military base leased from another nation." 321 F.3d at 1144. Instead, the appellate court found Landsberg prison in Germany to be a more suitable analogy, and because Eisenstrager held that no constitutional rights existed there, the D.C. Circuit concluded that no constitutional rights could exist at Guantanamo Bay. Rasul, however, unequivocally rejected the D.C. Circuit's analogy and made clear that Guantanamo Bay cannot be considered a typical overseas military base.

In his concurring opinion in Rasul, Justice Kennedy unambiguously repudiated the D.C. Circuit's analogy of Guantanamo Bay to Landsberg prison, and he made a Ralpho-type conclusion that Guantanamo Bay was, for all significant purposes, the equivalent of sovereign U.S. territory. He explained:

Guantanamo Bay is in every practical respect a United States territory, and it is one far removed from any hostilities. . . . [The Guantanamo Bay lease] is no ordinary lease. Its term is indefinite and at the discretion of the United States. What matters is the unchallenged and indefinite control that the United States has long exercised over Guantanamo Bay. From a practical perspective, the indefinite lease of Guantanamo Bay has produced a place that belongs to the United States, extending the "implied protection" of the United States to it.

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Id. at 2700 (Kennedy, J., concurring) (citing Eisenbrauer, 339 U.S. at 777-78). Although the majority opinion was not as explicit as Justice Kennedy's concurrence, it too found significant the territorial nature of Guantanamo Bay and dismissed the D.C. Circuit's characterization of Guantanamo Bay as nothing more than a foreign military prison. For example, in refusing the application of Eisenbrauer's constitutional analysis to these cases, the majority took special note that, unlike the German prisoners, the Guantanamo detainees "have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control." 124 S. Ct. at 2693. Additionally, in rejecting an argument made by respondents that applying the habeas statute to prisoners at Guantanamo Bay would violate a canon of statutory interpretation against extraterritorial application of legislation, the majority wrote:

Whatever traction the presumption against extraterritoriality might have in other contexts, it certainly has no application to the operation of the habeas statute with respect to persons detained within the "territorial jurisdiction" of the United States. . . . By the express terms of its agreements with Cuba, the United States exercises "complete jurisdiction and control" over the Guantanamo Bay Naval Base, and may continue to exercise such control permanently if it so chooses.

124 S. Ct. at 2696 (citing Foley Bros., Inc. v. Filardo, 336 U.S. 281, 285 (1949), in which the Court refused to interpret a statute mandating an eight hour work day to have application to an American citizen working for a contractor in Iran and Iraq absent evidence that the "United States had been granted by the respective sovereignties any authority, legislative or otherwise, over the labor laws or customs of Iran or Iraq.").

These passages alone would be sufficient for this Court to recognize the special nature of Guantanamo Bay and, in accordance with Ralpho v. Bell, to treat it as the equivalent of sovereign U.S. territory where fundamental constitutional rights exist. But perhaps the strongest basis for

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recognizing that the detainees have fundamental rights to due process rests at the conclusion of the Rasul majority opinion. In summarizing the nature of these actions, the Court recognized:

Petitioners' allegations – that, although they have engaged neither in combat nor in acts of terrorism against the United States, they have been held in Executive detention for more than two years in territory subject to the long-term, exclusive jurisdiction and control of the United States, without access to counsel and without being charged with any wrongdoing – unquestionably describe “custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Cf. United States v. Verdugo-Urquidez, 494 U.S. 259, 277-278, 110 S. Ct. 1056, 108 L.Ed.2d 222 (1990) (Kennedy, J., concurring), and cases cited therein.

124 S. Ct. at 2698 n.15. This comment stands in sharp contrast to the declaration in Verdugo-

Urquidez relied upon by the D.C. Circuit in Al Odah that the Supreme Court’s “rejection of extraterritorial application of the Fifth Amendment [has been] emphatic.” 494 U.S. at 269.

Given the Rasul majority’s careful scrutiny of Eisenberger, it is difficult to imagine that the Justices would have remarked that the petitions “unquestionably describe ‘custody in violation of the Constitution or laws or treaties of the United States’” unless they considered the petitioners to be within a territory in which constitutional rights are guaranteed. Indeed, had the Supreme Court intended to uphold the D.C. Circuit’s rejection in Al Odah of underlying constitutional rights, it is reasonable to assume that the majority would have included in its opinion at least a brief statement to that effect, rather than delay the ultimate resolution of this litigation and require the expenditure of additional judicial resources in the lower courts. To the contrary, rather than citing Eisenberger or even the portion of Verdugo-Urquidez that referenced the “emphatic” inapplicability of the Fifth Amendment to aliens outside U.S. territory, the Rasul Court specifically referenced the portion of Justice Kennedy’s concurring opinion in Verdugo-Urquidez that discussed the continuing validity of the Insular Cases, Justice Harlan’s concurring

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opinion in Reid v. Covert, and Justice Kennedy's own consideration of whether requiring adherence to constitutional rights outside of the United States would be "impracticable and anomalous." This Court therefore interprets that portion of the opinion to require consideration of that precedent in the determination of the underlying rights of the detainees.

There would be nothing impracticable and anomalous in recognizing that the detainees at Guantanamo Bay have the fundamental right to due process of law under the Fifth Amendment. Recognizing the existence of that right at the Naval Base would not cause the United States government any more hardship than would recognizing the existence of constitutional rights of the detainees had they been held within the continental United States. American authorities are in full control at Guantanamo Bay, their activities are immune from Cuban law, and there are few or no significant remnants of native Cuban culture or tradition remaining that can interfere with the implementation of an American system of justice.²⁸ The situation in these cases is very different from the circumstances in Verdugo-Urquider, where the defendant claimed the United States government was required to get a warrant to perform a search in Mexico, a sovereign country that employs an entirely different legal system, lacks officials to issue warrants, and has potentially different concepts of privacy. Similarly, the imposition of constitutional rights would be less difficult at Guantanamo Bay than it was in any of the Insular Cases, where the courts were

²⁸ Ironically, the Cuban government has alleged that the U.S. military is violating the human rights of the detainees at Guantanamo Bay and has demanded more humane treatment of the prisoners. The U.S. government, however, does not appear to have conceded the Cuban government's sovereignty over these matters. See What's News, The Wall Street Journal, Jan. 20, 2005, at A1 (2005 WL 39838432); Cuba Demands US Stop Alleged Abuses at "Illegally Occupied" Guantanamo Base, Agence France Presse, Jan. 19, 2005 (2005 WL 69517025).

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required to determine whether imposition of American rights such as the right to trial by jury and indictment by grand jury were even possible in places such as the Philippines and Puerto Rico with native legal systems and populations previously unexposed to American jurisprudence.

Of course, it would be far easier for the government to prosecute the war on terrorism if it could imprison all suspected "enemy combatants" at Guantanamo Bay without having to acknowledge and respect any constitutional rights of detainees. That, however, is not the relevant legal test. By definition, constitutional limitations often, if not always, burden the abilities of government officials to serve their constituencies. Although this nation unquestionably must take strong action under the leadership of the Commander in Chief to protect itself against enormous and unprecedented threats, that necessity cannot negate the existence of the most basic fundamental rights for which the people of this country have fought and died for well over two hundred years. As articulated by the Supreme Court after the conclusion of the Civil War:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it, which are necessary to preserve its existence; as has been happily proved by the result of the great effort to throw off its just authority.

Ex Parte Milligan, 71 U.S. 2, 120-21 (1866). See also United States v. Robel, 389 U.S. 258, 264 (1967) ("It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties ... which makes the defense of the Nation worthwhile.").

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In sum, there can be no question that the Fifth Amendment right asserted by the Guantanamo detainees in this litigation – the right not to be deprived of liberty without due process of law – is one of the most fundamental rights recognized by the U.S. Constitution. In light of the Supreme Court's decision in Rasul, it is clear that Guantanamo Bay must be considered the equivalent of a U.S. territory in which fundamental constitutional rights apply. Accordingly, and under the precedent set forth in Verdugo-Urquidez, Ralpho, and the earlier Insular Cases, the respondents' contention that the Guantanamo detainees have no constitutional rights is rejected, and the Court recognizes the detainees' rights under the Due Process Clause of the Fifth Amendment.

B. SPECIFIC REQUIREMENTS OF THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE

Having found that the Guantanamo detainees are entitled to due process under the Fifth Amendment to the United States Constitution, the Court must now address the exact contours of that right as it applies to the government's determinations that they are "enemy combatants." Due process is an inherently flexible concept, and the specific process due in a particular circumstance depends upon the context in which the right is asserted. MORISSEY V. BREWER, 408 U.S. 471, 481 (1972). Resolution of a due process challenge requires the consideration and weighing of three factors: the private interest of the person asserting the lack of due process; the risk of erroneous deprivation of that interest through use of existing procedures and the probable value of additional or substitute procedural safeguards; and the competing interests of the

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government, including the financial, administrative, and other burdens that would be incurred were additional safeguards to be provided. Mathews v. Eldridge, 424 U.S. 319, 335 (1976).

The Supreme Court applied a Mathews v. Eldridge analysis in Hamdi v. Rumsfeld, ___ U.S. ___, 124 S. Ct. 2633 (2004), a decision issued the same day as Rasul which considered an American citizen's due process challenge to the U.S. military's designation of him as an "enemy combatant." Although none of the detainees in the cases before this Court is an American citizen, the facts under Hamdi are otherwise identical in all material respects to those in Rasul. Accordingly, Hamdi forms both the starting point and core of this Court's consideration of what process is due to the Guantanamo detainees in these cases.

In addressing the detainee's private interest in Hamdi for purposes of the Mathews v. Eldridge analysis, the plurality opinion called it "the most elemental of liberty interests - the interest in being free from physical detention by one's own government." 124 S. Ct. at 2646. Although the detainees in the cases before this Court are aliens and are therefore not being detained by their own governments, that fact does not lessen the significance of their interests in freedom from incarceration and from being held virtually incommunicado from the outside world. There is no practical difference between incarceration at the hands of one's own government and incarceration at the hands of a foreign government; significant liberty is deprived in both situations regardless of the jailer's nationality.

As was the case in Hamdi, the potential length of incarceration is highly relevant to the weighing of the individual interests at stake here. The government asserts the right to detain an "enemy combatant" until the war on terrorism has concluded or until the Executive, in its sole

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discretion, has determined that the individual no longer poses a threat to national security. The government, however, has been unable to inform the Court how long it believes the war on terrorism will last. See December 1, 2004 Transcript of Motion to Dismiss (hereinafter "Transcript") at 22-23. Indeed, the government cannot even articulate at this moment how it will determine when the war on terrorism has ended. *Id.* at 24. At a minimum, the government has conceded that the war could last several generations, thereby making it possible, if not likely, that "enemy combatants" will be subject to terms of life imprisonment at Guantanamo Bay. *Id.* at 21;

Hamdi, 124 S. Ct. at 2641. Short of the death penalty, life imprisonment is the ultimate deprivation of liberty, and the uncertainty of whether the war on terror – and thus the period of incarceration – will last a lifetime may be even worse than if the detainees had been tried, convicted, and definitively sentenced to a fixed term.

It must be added that the liberty interests of the detainees cannot be minimized for purposes of applying the *Mathews v. Eldridge* balancing test by the government's allegations that they are in fact terrorists or are affiliated with terrorist organizations. The purpose of imposing a due process requirement is to prevent mistaken characterizations and erroneous detentions, and the government is not entitled to short circuit this inquiry by claiming *ab initio* that the individuals are alleged to have committed bad acts. See *Hamdi*, 124 S. Ct. at 2647 ("our starting point for the *Mathews v. Eldridge* analysis is unaltered by the allegations surrounding the particular detainee or the organizations with which he is alleged to have associated"). Moreover, all petitioners in these cases have asserted that they are not terrorists and have not been involved in terrorist activities, and under the standards provided by the applicable rules of procedure, those

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allegations must be accepted as true for purposes of resolving the government's motion to dismiss.

On the other side of the Mathews v. Eldridge analysis is the government's significant interest in safeguarding national security. Having served as the Chief Judge of the United States Foreign Intelligence Surveillance Court (also known as "the FISA Court"), the focus of which involves national security and international terrorism,²⁰ this Judge is keenly aware of the determined efforts of terrorist groups and others to attack this country and to harm American citizens both at home and abroad. Utmost vigilance is crucial for the protection of the United States of America. Of course, one of the government's most important obligations is to safeguard this country and its citizens by ensuring that those who have brought harm upon U.S. interests are not permitted to do so again. Congress itself expressly recognized this when it enacted the AUMF authorizing the President to use all necessary and appropriate force against those responsible for the September 11 attacks. The Supreme Court also gave significant weight to this governmental concern and responsibility in Hamdi when it addressed the "interests in ensuring that those who have in fact fought with the enemy during a war do not return to battle against the United States." 124 S. Ct. at 2647. The plurality warned against naivete regarding the dangers posed to the United States by terrorists and noted that the legislative and executive branches were in the best positions to deal with those dangers. As articulated by the plurality, "[T]he law of war and the realities of combat may render . . . detentions both necessary and appropriate, and our due process analysis need not blink at those realities. Without doubt, our

²⁰ See 50 U.S.C. § 1803 (2003).

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Constitution recognizes that core strategic matters of war-making belong in the hands of those who are best positioned and most politically accountable for making them." *Id.* Indeed, a majority of the Court affirmed the Executive's authority to seize and detain Taliban fighters as long as the conflict in Afghanistan continues, regardless of how indefinite the length of that war may be. *See* the plurality opinion, *id.* at 2641-42, and the dissenting opinion of Justice Thomas, *id.* at 2674.

Given the existence of competing, highly significant interests on both sides of the equation - the liberty of individuals asserting complete innocence of any terrorist activity versus the obligation of the government to protect this country against terrorist attacks - the question becomes what procedures will help ensure that innocents are not indefinitely held as "enemy combatants" without imposing undue burdens on the military to ensure the security of this nation and its citizens. The four member *Handi* plurality answered this question in some detail, and although the two concurring members of the Court, Justice Souter and Justice Ginsburg, emphasized a different basis for ruling in favor of Mr. *Handi*, they indicated their agreement that, at a minimum, he was entitled to the procedural protections set forth by the plurality. *Id.* at 2660.

According to the plurality in *Handi*, an individual detained by the government on the ground that he is an "enemy combatant" "must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." *Id.* at 2648. Noting the potential burden these requirements might cause the government at a time of ongoing military conflict, the plurality stated that it would not violate

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due process for the decision maker to consider hearsay as the most reliable available evidence. *Id.* at 2649. In addition, the plurality declared it permissible to adopt a presumption in favor of "enemy combatant" status, "so long as that presumption remained a rebuttable one and fair opportunity for rebuttal were provided." *Id.* For that presumption to apply and for the onus to shift to the detainee, however, the plurality clarified that the government first would have to "put[] forth credible evidence that the [detainee] meets the enemy-combatant criteria." *Id.*²⁰

After setting forth these standards, the plurality suggested the "possibility" that constitutional requirements of due process could be met by an "appropriately authorized and properly constituted military tribunal" and referenced the military tribunals used to determine whether an individual is entitled to prisoner of war status under the Geneva Convention. *Id.* at 2651 (citing *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees*, Army Regulation 190-8, § 1-6 (1997)). In the absence of a tribunal following constitutionally mandated procedures, however, the plurality declared that it was the District Court's obligation to provide those procedural rights to the detainee in a *habeas* action. Again recognizing the enormous significance of the interests of both detainees and the government, the plurality affirmed the proper role of the judiciary in these matters, stating "We have no reason to doubt that courts faced with these sensitive matters will pay proper heed both to the matters of national security that might arise in an individual case and to the constitutional limitations

²⁰ Justice Souter, whose opinion was joined by Justice Ginsburg, indicated he did not believe that such a presumption was constitutionally permissible when he wrote, "I do not mean to imply agreement that the Government could claim an evidentiary presumption casting the burden of rebuttal on [the detainee]." *Id.* at 2660.

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safeguarding essential liberties that remain vibrant even in times of security concerns." *Id.* at 2652. The plurality concluded by affirming that the detainee "unquestionably [had] the right to access to counsel in connection with the proceedings on remand." *Id.*

Hamdi was decided before the creation of the Combatant Status Review Tribunal, and the respondents contend in their motion to dismiss that were this Court to conclude that the detainees are entitled to due process under the Fifth Amendment, the CSRT proceedings would fully

~~comply with all constitutional requirements. More specifically, the respondents claim that the~~
CSRT regulations were modeled after Army Regulation 190-8 governing the determination of prisoner of war status, referenced in Hamdi, and actually exceed the requirements set forth by the Hamdi plurality. For example, respondents cite the facts that under CSRT rules, tribunal members must certify that they have not been involved in the "apprehension, detention, interrogation, or previous determination of status of the detainee[s]," that detainees are provided a "Personal Representative" to assist in the preparation of their cases, that the "Recorder" – that is, the person who presents evidence in support of "enemy combatant" status – must search for exculpatory evidence, that the detainee is entitled to an unclassified summary of the evidence against him, and that the tribunal's decisions are reviewed by a higher authority. Motion to Dismiss at 34-35. Notwithstanding the procedures cited by the respondents, the Court finds that the procedures provided in the CSRT regulations fail to satisfy constitutional due process requirements in several respects.

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C. SPECIFIC CONSTITUTIONAL DEFECTS IN THE CSRT PROCESS AS WRITTEN IN THE REGULATIONS AND AS APPLIED TO THE DETAINEES

The constitutional defects in the CSRT procedures can be separated into two categories. The first category consists of defects which apply across the board to all detainees in the cases before this Judge. Specifically, those deficiencies are the CSRT's failure to provide the detainees with access to material evidence upon which the tribunal affirmed their "enemy combatant" status and the failure to permit the assistance of counsel to compensate for the government's refusal to disclose classified information directly to the detainees. The second category of defects involves those which are detainee specific and may or may not apply to every petitioner in this litigation. Those defects include the manner in which the CSRT handled accusations of torture and the vague and potentially overbroad definition of "enemy combatant" in the CSRT regulations. While additional specific defects may or may not exist, further inquiry is unnecessary at this stage of the litigation given the fundamental deficiencies detailed below.

1. General Defects Existing in All Cases Before the Court: Failure to Provide Detainees Access to Material Evidence Upon Which the CSRT Affirmed "Enemy Combatant" Status and Failure to Permit the Assistance of Counsel

The CSRT reviewed classified information when considering whether each detainee presently before this Court should be considered an "enemy combatant," and it appears that all of the CSRT's decisions substantially relied upon classified evidence. No detainee, however, was ever permitted access to any classified information nor was any detainee permitted to have an advocate review and challenge the classified evidence on his behalf. Accordingly, the CSRT

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failed to provide any detainee with sufficient notice of the factual basis for which he is being detained and with a fair opportunity to rebut the government's evidence supporting the determination that he is an "enemy combatant."

The inherent lack of fairness of the CSRT's consideration of classified information not disclosed to the detainees is perhaps most vividly illustrated in the following unclassified colloquy, which, though taken from a case not presently before this Judge, exemplifies the practical and severe disadvantages faced by all Guantanamo prisoners. In reading a list of allegations forming the basis for the detention of Mustafa Ait Idr,³¹ a petitioner in Boumediene v. Bush, 04-CV-1166 (R.L), the Recorder of the CSRT asserted, "While living in Bosnia, the Detainee associated with a known Al Qaida operative." In response, the following exchange occurred:

Detainee: Give me his name.

Tribunal President: I do not know.

Detainee: How can I respond to this?

Tribunal President: Did you know of anybody that was a member of Al Qaida?

Detainee: No, no.

Tribunal President: I'm sorry, what was your response?

Detainee: No.

Tribunal President: No?

³¹ Although the petition for writ of habeas corpus filed on behalf of this detainee and related documents refer to him as "Mustafa Ait Idr," the proper spelling of his name appears to be "Mustafa Ait Idr."

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Detainee: No. This is something the interrogators told me a long while ago. I asked the interrogators to tell me who this person was. Then I could tell you if I might have known this person, but not if this person is a terrorist. Maybe I knew this person as a friend. Maybe it was a person that worked with me. Maybe it was a person that was on my team. But I do not know if this person is Bosnian, Indian or whatever. If you tell me the name, then I can respond and defend myself against this accusation.

Tribunal President: We are asking you the questions and we need you to respond to what is on the unclassified summary.

Respondent's Factual Return to Petition for Writ of Habeas Corpus by Petitioner Mustafa Ait

Kbir, filed October 27, 2004, Enclosure (3) at 13. Subsequently, after the Recorder read the allegation that the detainee was arrested because of his alleged involvement in a plan to attack the U.S. Embassy in Sarajevo, the detainee expressly asked in the following colloquy to see the evidence upon which the government's assertion relied:

Detainee: . . . The only thing I can tell you is I did not plan or even think of [attacking the Embassy]. Did you find any explosives with me? Any weapons? Did you find me in front of the embassy? Did you find me in contact with the Americans? Did I threaten anyone? I am prepared now to tell you, if you have anything or any evidence, even if it is just very little, that proves I went to the embassy and looked like that [Detainee made a gesture with his head and neck as if he were looking into a building or a window] at the embassy, then I am ready to be punished. I can just tell you that I did not plan anything. Point by point, when we get to the point that I am associated with Al Qaida, but we already did that one.

Recorder: It was [the] statement that preceded the first point.

Detainee: If it is the same point, but I do not want to repeat myself. These accusations, my answer to all of them is I did not do these things. But I do not have anything to prove this. The only thing is the citizenship. I can tell you where I was and I had the papers to prove so. But to tell me I planned to bomb, I can only tell you that I did not plan.

Tribunal President: Mustafa, does that conclude your statement?

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Detainee: That is it, but I was hoping you had evidence that you can give me. If I was in your place – and I apologize in advance for these words – but if a supervisor came to me and showed me accusations like these, I would take these accusations and I would hit him in the face with them. Sorry about that.

[Everyone in the Tribunal room laughs.]

Tribunal President: We had to laugh, but it is okay.

Detainee: Why? Because these are accusations that I can't even answer. I am not able to answer them. You tell me I am from Al Qaida, but I am not an Al Qaida. I don't have any proof to give you except to ask you to catch Bin Laden and ask him if I am a part of Al Qaida. To tell me that I thought, I'll just tell you that I did not. I don't have proof regarding this. What should be done is you should give me evidence regarding these accusations because I am not able to give you any evidence. I can just tell you no, and that is it.

Id. at 14-15. The laughter reflected in the transcript is understandable, and this exchange might have been truly humorous had the consequences of the detainee's "enemy combatant" status not been so terribly serious and had the detainee's criticism of the process not been so piercingly accurate.²²

Another illustration of the fundamental unfairness of the CSRT's reliance on classified information not disclosed to the detainees appears in the government's classified factual return to the petition filed by Murat Kurnaz in *Kurnaz v. Bush*, 04-CV-1135 (ESH). Mr. Kurnaz is a Turkish citizen and permanent resident of Germany who was arrested by police in Pakistan and turned over to American authorities. The CSRT concluded that he was a member of al Qaeda

²² This is not to say whether or not the government was able to present any inculpatory evidence during the CSRT proceeding against the detainee. The primary purpose of the Memorandum Opinion's reference to the transcript at this stage of the litigation is to illustrate the detainees' lack of any reasonable opportunity to confront the government's evidence against them and not to resolve whether or not this particular detainee did in fact plan to attack the U.S. Embassy.

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~~THIS DOCUMENT CONTAINS
CLASSIFIED INFORMATION~~

and stated that this determination was based on unclassified evidence and on one classified document, attached to the factual return as Exhibit R19: Respondents' Factual Return to Petition for Writ of Habeas Corpus by Petitioner Murat Kumaz (hereinafter "Kumaz Factual Return"), filed October 18, 2004, Enclosure (2).³³

The Court does not find that the unclassified evidence alone is sufficiently convincing in supporting the CSRT's conclusion that he is a member of al Qaeda.³⁴ That evidence establishes that Mr. Kumaz attended a mosque in Bremen, Germany which the CSRT found to be moderate in its views but also to have housed a branch of Jama'at-Al-Tabliq (hereinafter "JT"), a missionary organization alleged to have supported terrorist organizations. Kumaz Factual Return, Enclosure (1) at 2. The unclassified evidence also establishes that Mr. Kumaz had been friends with an individual named Selcuk Belgin, who is alleged to have been a suicide bomber, and that the detainee traveled to Pakistan to attend a JT school. *Id.* at 2-3. Nowhere does the CSRT express any finding based on unclassified evidence that the detainee planned to be a suicide bomber himself, took up arms against the United States, or otherwise intended to attack American interests. Thus, the most reasonable interpretation of the record is that the classified document formed the most important basis for the CSRT's ultimate determination. That

³³ Although the tribunal makes several references to its reliance on Exhibit R12, those references were typographical errors and the document actually relied upon was Exhibit R19, as recognized by the tribunal's Legal Advisor. See October 14, 2004 Memorandum from James R. Crisfield Jr. to the Director, Combatant Status Review Tribunal, attached to the Kumaz Factual Return.

³⁴ In fact, for reasons stated later in this opinion, even if all of the unclassified evidence were accepted as true, it alone would not form a constitutionally permissible basis for the indefinite detention of the petitioner. See *infra* section I.C.2.b.

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700268



Department of Defense
 Office for the Administrative Review
 of the Detention of Enemy Combatants (OARDEC)
 at U.S. Naval Base Guantanamo Bay, Cuba
 1000 Navy Pentagon, Washington, D.C. 20350-1000

~~SECRET//NOFORN~~

ACTION MEMO

FOR: Designated Civilian Official

FROM: Director, OARDEC *[Signature]* 12/14/05

SUBJECT: ADMINISTRATIVE REVIEW BOARD ASSESSMENT AND RECOMMENDATION
 ICO ISN 061 (TURKEY)

- o Subject ARB was held on 4 November 2005 resulting in a unanimous recommendation to [REDACTED] subject ISN based on the following:
 - Threat Assessment: [REDACTED]
 - Intelligence Value: [REDACTED]
 - Other Factors: [REDACTED]

- o Intelligence inputs used in the ARB's determination of the subject ISN included:
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]

o Agency assessments follow:

AGENCY	ASSESSMENT	RECOMMENDATION
DASD-DA	[REDACTED]	[REDACTED]
CIA	[REDACTED]	[REDACTED]
FBI	[REDACTED]	[REDACTED]
Dept of State	[REDACTED]	[REDACTED]

- o The Legal Sufficiency Review (Tab A) and the Presiding Officer's Assessment and Recommendation (Tab B) with enclosures, are attached.

RECOMMENDATION: That the DCO [REDACTED]
 [REDACTED] (Detail) *[Signature]*

Or: Transfer _____ Release _____

Attachments:
 Tab A - OARDEC ASJA Legal Sufficiency Review
 Tab B - Presiding Officer's Assessment and Recommendation

Prepared by: [REDACTED]

700096

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~~SECRET//NOFORN~~
ATTORNEY WORK PRODUCT

29 Nov 05

From: Assistant Staff Judge Advocate, OARDEC (U)
To: Designated Civilian Official (U)
Via: Director, OARDEC (U)

Subj: (U) LEGAL SUFFICIENCY REVIEW OF ADMINISTRATIVE REVIEW BOARD
(ARB) FOR DETAINEE ISN 061 (U)

Ref: (a) (U) Deputy Secretary of Defense Order OSD 06942-04 of 11 May 04 (U)
(b) (U) Designated Civilian Official Implementation Directive of 14 Sep 04 (U)

Encl: (1) (U) Presiding Officer of ARB Panel #26 memo of 7 November 2005 (S//NF)

1. (S//NF) A legal sufficiency review has been completed on the subject Administrative Review Board in accordance with references (a) and (b). After reviewing enclosure (1), I find that:

a. (U) [REDACTED]

b. (U) [REDACTED]

c. (U) [REDACTED]

d. [REDACTED]

2. (U) The ARB unanimously assessed the detainee [REDACTED]

~~SECRET//NOFORN~~
ATTORNEY WORK PRODUCT

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~~SECRET//NOFORN~~
~~ATTORNEY WORK PRODUCT~~

Subj: LEGAL SUFFICIENCY REVIEW OF ADMINISTRATIVE REVIEW BOARD (ARB)
FOR DETAINEE ISN # 061

3. (U) Other matters. The detainee is a habeas petitioner in the case of Kurnaz v. Bush, Civil Action No. 04-CV-1135 (D.D.C.). As of the date of this memorandum there is a court order in place that requires the Government to provide the detainee's counsel and the court 30 days notice prior to transporting or removing the detainee from Guantanamo Bay Naval Base, Cuba.

[REDACTED]

4. (U)

[REDACTED]

CPT, JA, USA

~~SECRET//NOFORN~~
~~ATTORNEY WORK PRODUCT~~



~~SECRET // NOFORN~~

DEPARTMENT OF DEFENSE
OFFICE FOR THE ADMINISTRATIVE REVIEW OF
THE DETENTION OF ENEMY COMBATANTS (OARDEC)
AT U.S. NAVAL BASE GUANTANAMO BAY, CUBA
1000 NAVY PENTAGON, WASHINGTON, D. C. 20350-1000

07 November 2005

~~SECRET // NOFORN~~ UNCLASSIFIED Upon Removal of Enclosures (4) & (5)

From: Presiding Officer of Administrative Review Board Panel # 26 (U)
To: Designated Civilian Official (U)
Via: Director, OARDEC (U)

Subj: (U) ASSESSMENT AND RECOMMENDATION FOR THE ADMINISTRATIVE
REVIEW OF THE DETENTION OF ENEMY COMBATANT ISN 061 (U)

Ref: (a) (U) Deputy Secretary of Defense Order OSD 06942-04 of May 11, 2004 (U)
(b) (U) Administrative Review Board Implementation Order of September 14, 2004 (U)

Encl: (1) (U) Director, OARDEC, Memorandum for the Record of 17 Oct 2005 (U)
(2) (U) Enemy Combatant Notification (U)
(3) (U) Enemy Combatant Election Form (U)
(4) (U) Classified Record of Proceedings and Basis for Administrative Review Board
Decision for ISN 061 (S//NF)
(5) (U) Copies of Documented Evidence Presented to the Board (S//NF)

1. (U) Per references (a) and (b), an Administrative Review Board was conducted on subject
Enemy Combatant on 04 Nov 05 to determine whether he continues to be a threat to the United
States and its allies or whether there are reasons to further detain him in U.S. custody.
Enclosures (1) through (5) pertain.

2. (U) After review and deliberation, Administrative Review Board Panel # 26 determined by a
vote of 3 to 0 that Enemy Combatant ISN 061 [REDACTED]
[REDACTED] It specifically determined the following:

Threat Assessment: [REDACTED]
Intelligence Value: [REDACTED]
Other Factors: [REDACTED]

3. (U) The Administrative Review Board recommends to the Designated Civilian Official that
the Enemy Combatant [REDACTED]
[REDACTED]

[REDACTED]
Colonel, U.S. Marine Corps
Presiding Officer

~~SECRET // NOFORN~~

700098



Department of Defense
Office for the Administrative Review
of the Detention of Enemy Combatants (OARDEC)
at U.S. Naval Base Guantanamo Bay, Cuba
1000 Navy Pentagon, Washington, D.C. 20350-1000

17 October 2005

MEMORANDUM FOR THE RECORD

Subj: ADMINISTRATIVE REVIEW BOARD #26

Ref: (a) DCO Appointing Order of 14 Jan 05
(b) DCO Appointing Order of 03 Oct 05

1. By the authority established by references (a) and (b), an Administrative Review Board (ARB) to review the detention of enemy combatants at U.S. Naval Base Guantanamo Bay, Cuba, is hereby convened. The following commissioned officers shall serve as members of ARB Panel #26:

MEMBERS:

██████████ Colonel, U.S. Marine Corps; Presiding Officer

██████████, Colonel, U.S. Air Force; Member

██████████, Lieutenant Colonel, U.S. Army; Member (experienced in the field of intelligence)

J. M. McGARRAH
Director

Enclosure (1)
Page 1 of 1

70-0099

ENEMY COMBATANT NOTIFICATION

1. A Combatant Status Review Tribunal (CSRT) has determined that you are an enemy combatant. Because you are an enemy combatant, the United States may continue to detain you.

2. An Administrative Review Board (ARB) will now be held to determine whether you still pose a threat to the United States or its allies. The ARB will consider all relevant and reasonably available information. If the ARB decides you no longer pose a threat, you may be released from detention.

3. You may attend the ARB proceeding and present information about yourself to ARB members. If you believe you do not pose a threat to the United States or its allies, we recommend you immediately gather any information that you believe will prove that you are no longer a threat and why you should be released from detention.

4. The ARB will consider written statements from family members or other persons who can explain why you are no longer a threat. You may also present a written or oral statement at the ARB. Unlike the CSRT, witnesses are not allowed to testify during the ARB. An American officer (called an Assisting Military Officer) will help you prepare your case if you want him to. You do not have to attend the ARB, and you do not have to say anything if you do attend. The ARB will be conducted whether or not you choose to attend.



5. In addition, you have been notified that you may challenge your detention in a United States court. The following procedures are available if you want to challenge your detention in a U.S. court.

6. You may ask a civilian judge to look at the lawfulness of your detention through a process called a petition for a writ of habeas corpus. You may ask a friend or family member or a lawyer to file such a petition with the court. If you do not have a lawyer or a family member or friend who could file this petition for you, you may file your own petition. According to prior court rulings, petitions may be sent to:

United States District Court for the District of Columbia
333 Constitution Avenue, N.W.
Washington, DC 20001

If you do not wish to file a petition, you do not have to do so. However, a court will only consider your case if you file a petition.

7. Please talk to your Assisting Military Officer if you have any questions about this notification. Your assigned Assisting Military Officer will meet with you later.

Detainee ISN: 061 Date: 11 Feb 05
Signature of Officer Serving Notice: 
Printed Name of Officer Serving Notice: 

Enclosure (2)
EC-A

UNCLASSIFIED

Enemy Combatant Election Form

Initial Interview Date/Time: 02 November 2005 / 1343

ISN#: 061

Assisting Military Officer: [REDACTED] LtCol, USMC

Translator Required? Yes (OL-17)

Language: Turkish

- Verified Enemy Combatant Notification was accomplished and that Administrative Review Board (ARB) procedures were explained
- Linguist read the Unclassified Summary of Evidence to Enemy Combatant in the Detainee's native language or detainee read copy of Unclassified Summary of Evidence

Enemy Combatant Election:

- Wants to appear personally in ARB Proceedings
- Wants assistance of Assisting Military Officer (AMO)
- Affirmatively declines to appear personally in ARB Proceedings
- Uncooperative or unresponsive
- Wants to respond to each statement of information in Unclassified Summary after it is presented
- Wants to wait until entire Unclassified Summary has been presented before responding
- Other (see below)

Assisting Military Officer Comments:

The detainee's ARB interview was conducted on 02 November 2005 and lasted 17 minutes. After reviewing the ARB's purpose and procedures, the Turkish translated Unclassified Summary of Evidence was read to the detainee. The detainee stated he understood the difference between the CSRT and the ARB. 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 did not wish to attend, nor have the AMO present any information on his behalf. The detainee was cooperative, however lacked interest in the information presented. The detainee refused a copy of the Unclassified Summary of Evidence.

Signature of Officer Conducting Interview: [REDACTED]

Typed Name of Officer Conducting Interview: [REDACTED] LtCol, USMC

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Enclosure (3)

EC-B

Page 1 of 1

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(U) CLASSIFIED RECORD OF PROCEEDINGS AND BASIS FOR ADMINISTRATIVE REVIEW BOARD DECISION FOR ISN 061

1. (U) Introduction

(U) The Administrative Review Board (ARB) determined ISN 061 [REDACTED] threat to the United States and its allies. In reaching this determination, the ARB considered both classified and unclassified information. The following is an account of the proceedings and the factors the ARB used in making its recommendation.

2. (U) Synopsis of Proceedings

(U) The Enemy Combatant (EC) declined to attend the ARB; consequently the board was convened and conducted its proceedings without the EC being present. The Designated Military Officer (DMO) presented the unclassified summary, both in a written form and with an oral summary of the unclassified primary factors.

(U) The Assisting Military Officer (AMO) presented the Enemy Combatant Notification as Exhibit EC-A, identified herein as enclosure (2). The AMO then presented the Enemy Combatant Election Form as Exhibit EC-B, identified herein as enclosure (3). Exhibit EC-B indicated that the EC chose not to participate. When asked if he wanted to attend the ARB, present a written or oral statement, or have the AMO speak on his behalf, the EC stated he did not wish to attend, nor have the AMO present any information on his behalf. The EC was cooperative, however lacked interest in the information presented. The EC refused a copy of the Unclassified Summary of Evidence.

(U) The Board queried the DMO on details surrounding the EC's capture, and the AMO concerning the EC's behavior and willingness to cooperate during notification.

(U) The unclassified portion of the proceeding was adjourned. The ARB moved to the classified session and the DMO presented the classified summary. The ARB panel members reviewed the classified exhibits and the session was then closed for deliberation. The panel members also reviewed the SCI material available at JTF-GTMO headquarters.

3. (U) Primary Documents, Assessments, Testimony, and Other Considerations by the Administrative Review Board

(S//NF) Assessments and recommendations from the Deputy Assistant Secretary of Defense-Detainee Affairs (DASD-DA), Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI), Criminal Investigation Task Force (CIIF), and Joint Task Force-Guantanamo Bay, Cuba (JTF-GTMO), as well as other relevant documents were considered by the ARB, and are included within enclosure (5). The board has reviewed the SCI information for this case and considered it significant. We believe the Director, OARDEC will want to review it

ISN 061
Enclosure (4)
Page 1 of 7

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to support our decision. This information is being forwarded separately via JWICS, and should be reviewed by the Director, OARDEC.

(U) The following government agency assessments considered by the ARB are summarized as follows:

~~(S//NF)~~ DASD-DA assessed the EC [REDACTED]
[REDACTED]
[REDACTED] Army, Office of
General Counsel (OGC) and USSOUTHCOM
[REDACTED]

[REDACTED]
~~(S//NF)~~ The FBI [REDACTED]
[REDACTED]

~~(S//NF)~~ CITF [REDACTED]
[REDACTED]

~~(S//NF)~~ JTF-GTMO assessed the EC [REDACTED]
[REDACTED]



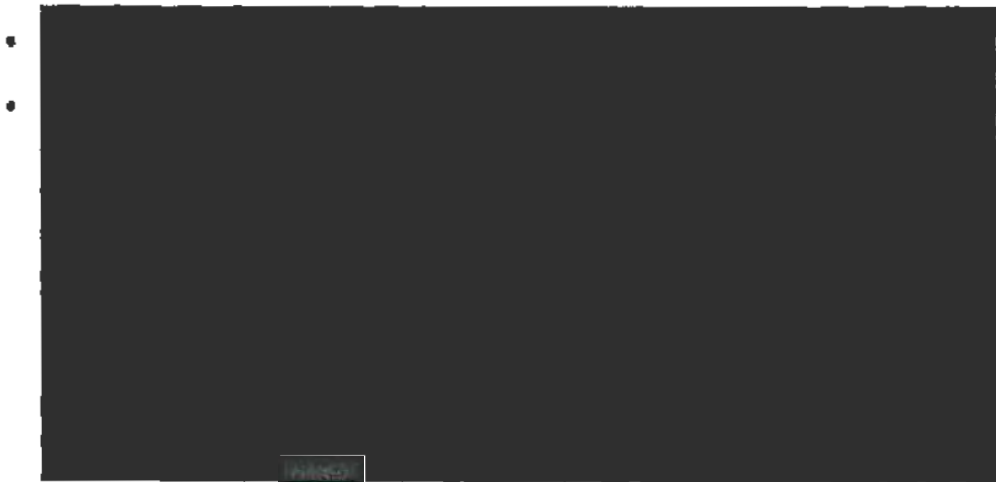
4. (U) Discussion of the Primary Factors (including intelligence value and law enforcement value of the Enemy Combatant)

(U) The ARB considered the above agency assessments and the following key indicators in its threat and intelligence assessment of the EC:

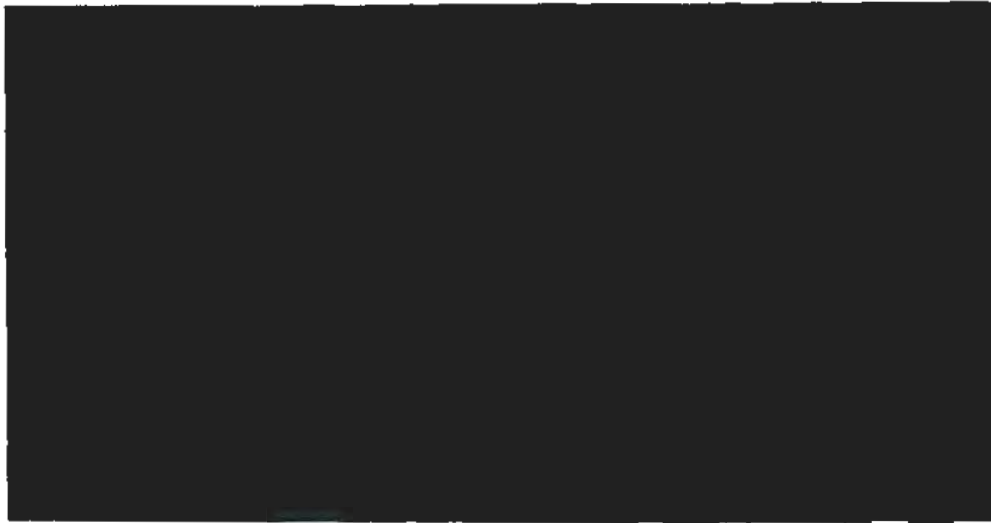
a. (U) Recruitment




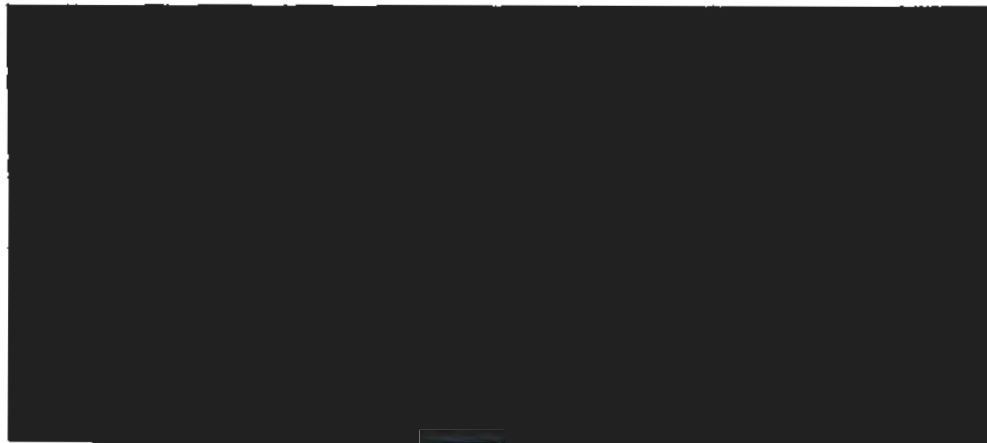
b. (U) Travel. The EC traveled in locations known to be used or managed by terrorist organizations or the Taliban.



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- c. (U) Training. 
- d. (U) Combat and capture. The EC was captured in connection with the conduct of combat or terrorist operations against the United States and its allies.



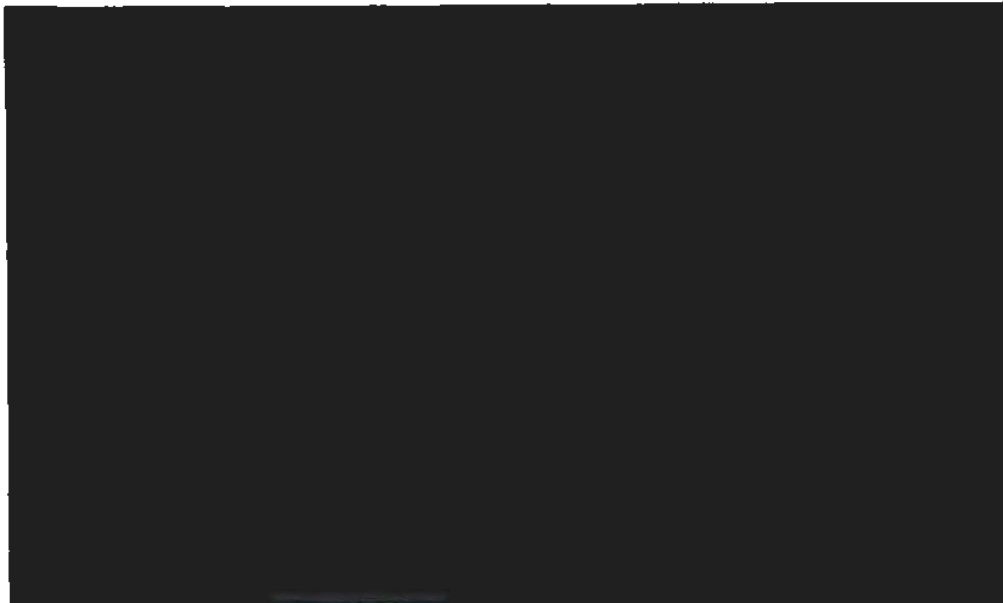
- e. (U) Organizational affiliations. The EC has been a known affiliate of organizations that espouse terrorist and violent acts against the United States and its allies.



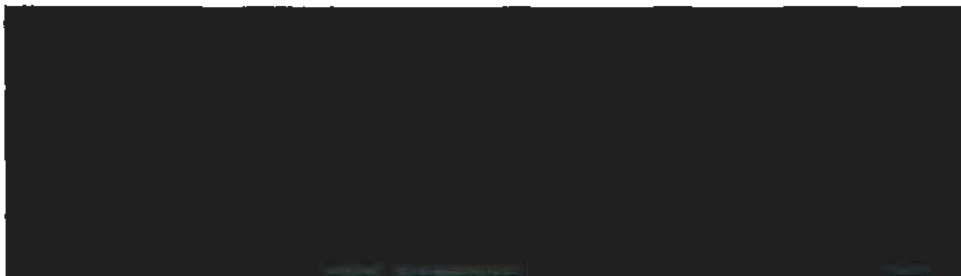
ISN 061
Enclosure (4)
Page 4 of 7

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700105



- f. (U) Individual affiliations. The EC is known to have affiliations with individuals who themselves plan, or are members of organizations that plan, to carry out acts of terrorism or violence against the United States and its allies.



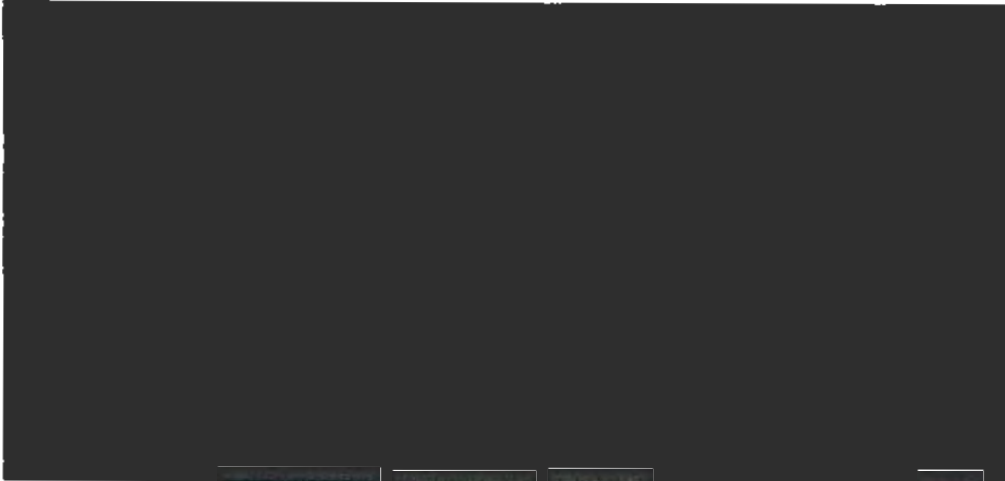
- g. (U) Behavior



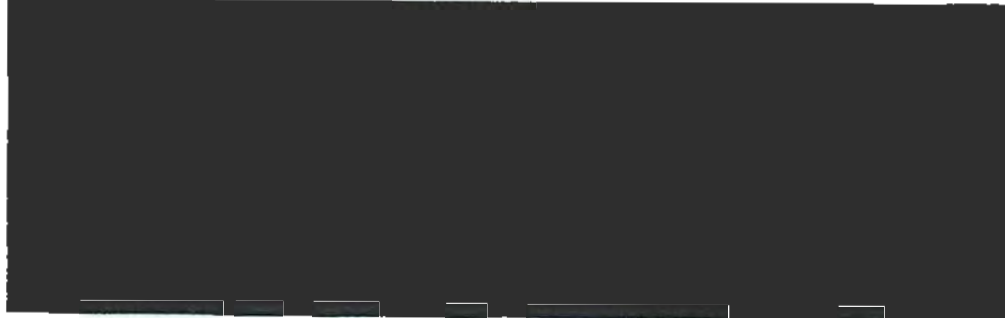


h. (U) Written and/or oral testimony from the EC. The EC provided no written or oral testimony.

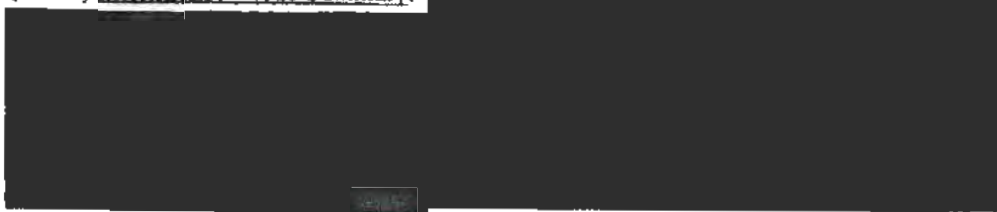
i. (U) Factors in support of release



j. ~~(S//NF)~~ Level of Threat Summary.



k. ~~(S//NF)~~ Intelligence Value Summary.



[REDACTED]

1. ~~(S)~~ Agency Recommendations. [REDACTED]

[REDACTED]

5. (U) Considerations by the Administrative Review Board on the Enemy Combatant's requests for Witness Statements and Home Country Statements provided through the United States

(U) The EC claims to be a citizen of Turkey and possesses a Turkish passport, but was born and raised in Germany. He has been evasive when questioned about German citizenship. The EC now states he does not wish to return to Turkey because he claims that he will be required to join the army. No witness or home country statements were provided.

6. (U) Consultations with the Administrative Review Board Legal Advisor

[REDACTED]

7. (U) Conclusions and Recommendation of the Administrative Review Board

(U) Upon careful review of all the information presented, the ARB makes the following determination and recommendation:

[REDACTED]

8. (U) Dissenting Board Member's report

(U) The panel reached a unanimous decision.

Respectfully submitted,

[REDACTED]

Colonel, U.S. Marine Corps
Presiding Officer

~~SECRET // NOFORN~~

Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

12 October 2005

COPIES OF DOCUMENTED EVIDENCE PRESENTED TO THE BOARD

ISN: [REDACTED] 061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

Alias:

Variant: KURNAZ, MURAT

Exhibit #	Date	Classification	Agency	Description	Class Footnote
DMO-1	10/12/2005	UNCLASSIFIED	OARDEC	(U) Unclassified Summary	
DMO-2	10/26/2005	UNCLASSIFIED	FBI	(U) Redaction Memo	
DMO-3	10/12/2005	SECRET // NF	OARDEC	(U) Classified Summary	
DMO-4	10/17/2005	SECRET // NF	DASD-DA	(U) DoD Assessment	1
DMO-5	[REDACTED]	SECRET // NF	[REDACTED]	(U) [REDACTED]	2
DMO-6	8/24/2005	FOUO // LES	FBI	(U) Administrative Review	3
DMO-7	5/19/2003	SECRET // NF	CITE	(U) Assessment	4
DMO-8	Not Dated	UNCLASSIFIED	USSOUTHCOM	(U) Not Provided	5
DMO-9	8/2/2005	SECRET // NF	JTF GTMO	(U) Recommendation	6
DMO-10	10/15/2004	SECRET // NF	OARDEC	(U) Review of CSRT	7
DMO-11	2/21/2002	SECRET	JFSOUTH	(U) Knowledgeability Brief	8
DMO-12	3/4/2003	SECRET // NF	JFSOUTH	(U) IIR [REDACTED]	9
DMO-13	3/20/2002	FOUO // LES	FBI	(U) FD 302	10
DMO-14	3/4/2003	FOUO // LES	CITE	(U) FM 40	11
DMO-15	4/19/2003	FOUO // LES	FBI	(U) FD 302	12
DMO-16	3/17/2004	SECRET // NF	JFSOUTH	(U) IIR [REDACTED]	13
DMO-17	[REDACTED]	SECRET // NF	[REDACTED]	[REDACTED]	14
DMO-18	10/30/2005	SECRET // NF	JTF GTMO	(U) ASP INTREP Activity	

Derived From: [REDACTED]

Declassify On: [REDACTED]

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Enclosure (5)

Page 1 of 1

700109

UNCLASSIFIED

Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

12 October 2005

TO: KARNAZ, MURAT

SUBJECT: UNCLASSIFIED SUMMARY OF EVIDENCE FOR ADMINISTRATIVE
REVIEW BOARD IN THE CASE OF KARNAZ, MURAT

1. An Administrative Review Board will be convened to review your case to determine if your continued detention is necessary.

2. The Administrative Review Board will conduct a comprehensive review of all reasonably available and relevant information regarding your case. At the conclusion of this review the Board will make a recommendation to: (1) release you to your home state; (2) transfer you to your home state, with conditions agreed upon by the United States and your home state; or (3) continue your detention under United States control.

3. The following primary factors favor continued detention:

a. Commitment

On or around 3 October 2001, the detainee traveled from Frankfurt, Germany to Pakistan to learn about Islam.

b. Training

The detainee does not have any military service.

c. Connections/Associations

1. The detainee traveled from Bremen, Germany to various sites in Pakistan to study the Koran. The detainee had decided to travel at this time because his new wife was not yet living with him in Germany. The detainee was sponsored by the Jamaat Tablighi Organization.

2. On 3 October 2001 the detainee and his friend attempted to depart the Frankfurt, Germany airport for Pakistan. However, his friend was stopped, questioned and detained concerning various unpaid legal fees. The detainee was then forced to travel to Pakistan alone and planned on staying there for one and a half to two months.

3. The detainee identified his friend as a possible suicide bomber.

4. The following primary factors favor release or transfer:

UNCLASSIFIED

DMO Exhibit 1
Page 1 of 2

700110

UNCLASSIFIED

SUBJECT: UNCLASSIFIED SUMMARY OF EVIDENCE FOR ADMINISTRATIVE REVIEW BOARD IN THE CASE OF KARNAZ, MURAT

a. The detainee denied having any knowledge of the attacks in the United States prior to their execution on 11 September 2001 and also denied knowledge of any rumors or plans of future attacks on the United States or United States' interests.

b. The detainee was queried regarding any knowledge or planning of internal uprisings at the Guantanamo detention facility with negative results.

c. The detainee was aware of the attacks on 11 September 2001. The detainee initially thought that it was an earthquake, but later witnessed the footage of the collapse of the second tower and understood that it was an attack. The detainee referred to the victims as mothers, fathers, sons and daughters.

d. The detainee said that no one asked him to fight. The detainee stated that the Jamaat Tablighi did not fight with guns and used words to teach instead. The detainee said that he was not interested in fighting and this was not his war.

e. The detainee denied that the Jamaat Tablighi discussed recruitment for fighting while he was at one of their meetings. The detainee denied ever receiving any weapons training when he traveled to Pakistan and also denied having a weapon.

5. You will be afforded a meaningful opportunity to be heard and to present information to the Board; this includes an opportunity to be physically present at the proceeding. The Assisting Military Officer (AMO) will assist you in reviewing all relevant and reasonably available unclassified information regarding your case. The AMO is not an advocate for or against continued detention, nor may the AMO form a confidential relationship with you or represent you in any other matter.

UNCLASSIFIED

DMO Exhibit 1
Page 2 of 2

700111

UNCLASSIFIED

Memorandum



To : Department of Defense Date 10/26/2005
Office of Administrative Review
for Detained Enemy Combatants

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject: REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ISN 061

Pursuant to the Secretary of the Navy Order of 14 September 2004, Implementation of Administrative Review of the Detention of Enemy Combatants at Guantanamo Bay Naval Base, Cuba, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT A THREAT TO THE U.S. OR ITS ALLIES.

The FBI certifies that withheld information is not relevant to the determination as to whether an enemy combatant should continue to be detained because he is a threat to the United States or its allies or whether there are other factors bearing upon the need for continued detention such as his intelligence value, and any law enforcement interest.

The following document relative to ISN 061 has been redacted by the FBI and provided to the OARDEC:

FD-302 dated 03/20/2002
FD-302 dated 04/19/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

²See Executive Order 12958

UNCLASSIFIED

700112

DMO Exhibit 2

Page 1 of 2

~~SECRET // NOFORN~~

Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

12 October 2005

ISN: [REDACTED] 51 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

Alias:

Variant: KURNAZ, MURAT

Summary

~~(S)~~ The detainee was born in Germany. His date of birth is 19 March 1982. The detainee has lived in Germany since birth. (FN8)

~~(FOUO/LES)~~ The detainee has a father, mother and two brothers. He was married in the summer of 2001. His wife is from Turkey and is not a German citizen and required various papers for her to go to Germany to stay with him. [REDACTED]

(U) The detainee traveled to Pakistan from Germany to learn about Islam. He traveled on or around 3 October 2001 from Frankfurt to Pakistan. [REDACTED]

~~(S)~~ The detainee does not have any military service. [REDACTED]

~~(S/NF)~~ The detainee traveled from Bremen, Germany to various sites in Pakistan to study the Koran. The detainee was sponsored by the Jamaat Tablighi Organization. [REDACTED]

~~(S/REB)~~ [REDACTED]

(U) The detainee decided to travel because his new wife was not yet living with him in Germany. [REDACTED]

~~(FOUO/LES)~~ Sometime near the end of July 2001, the detainee and his friend, [REDACTED] planned to travel to Pakistan. On 3 October 2001, the detainee and [REDACTED] attempted to depart the Frankfurt, Germany airport for Pakistan however, [REDACTED] was stopped, questioned and detained concerning various unpaid legal fees. The detainee was then forced to travel to Pakistan alone. He planned to stay for one and a half to two months. [REDACTED]

Derived From: [REDACTED]

Declassify On: [REDACTED]

~~SECRET // NOFORN~~

700113

DMO Exhibit 3
Page 1 of 7

~~SECRET // NOFORN~~

ISN: [REDACTED]-000061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

~~(FOUO//LES)~~ The detainee said that no one asked him to fight. He stated that Jamaat Tablighi did not fight with guns and used words to teach instead. The detainee said that he was not interested in fighting and this was not his war. [REDACTED]

~~(S)~~ The detainee denied having any knowledge of the attacks in the United States prior to their execution on 11 September 2001 and also denied knowledge of any rumors or plans of future attacks on the United States or United States interests. [REDACTED]

[REDACTED]

~~(FOUO//LES)~~ The detainee was aware of the attacks on 11 September 2001. He initially thought that an earthquake had occurred but later witnessed the footage of the collapse of the second tower and understood that it was an attack. He referred to the victims as mothers, fathers, sons and daughters. [REDACTED]

~~(FOUO//LES)~~ The detainee denied that the Jamaat Tablighi discussed recruitment for fighting while he was at a meeting. The detainee denied ever receiving any weapons training when he traveled to Pakistan and also denied having a weapon. [REDACTED]

Military Commission Potential

~~(S//NF)~~ Military Commission Jurisdiction Assessment: Based on the information available at this time, it appears [REDACTED] that the detainee will be determined to be an individual subject to the President's Military Order of 13 November 2001. [REDACTED]

~~(S//NF)~~ The detainee is not a United States citizen. He appears to be a citizen of Turkey.

~~(S//NF)~~ CTF is not aware of evidence that the detainee was or is a member of al Qaida.

~~(S//NF)~~ CTF is aware of indicators that the detainee may have aided, abetted or conspired to commit acts of terrorism against the U.S., its citizens or interests.

~~(S//NF)~~ CTF is not aware of any evidence that the detainee has knowingly harbored any individual who was a member of al Qaida or who has engaged in, aided, abetted or conspired to commit acts of terrorism against the U.S., its citizens or interests.

DASD-DA Recommendation (FOOTNOTE [REDACTED])

Threat Assessment

Level [REDACTED]

~~SECRET // NOFORN~~

Page 2 of 7

700114

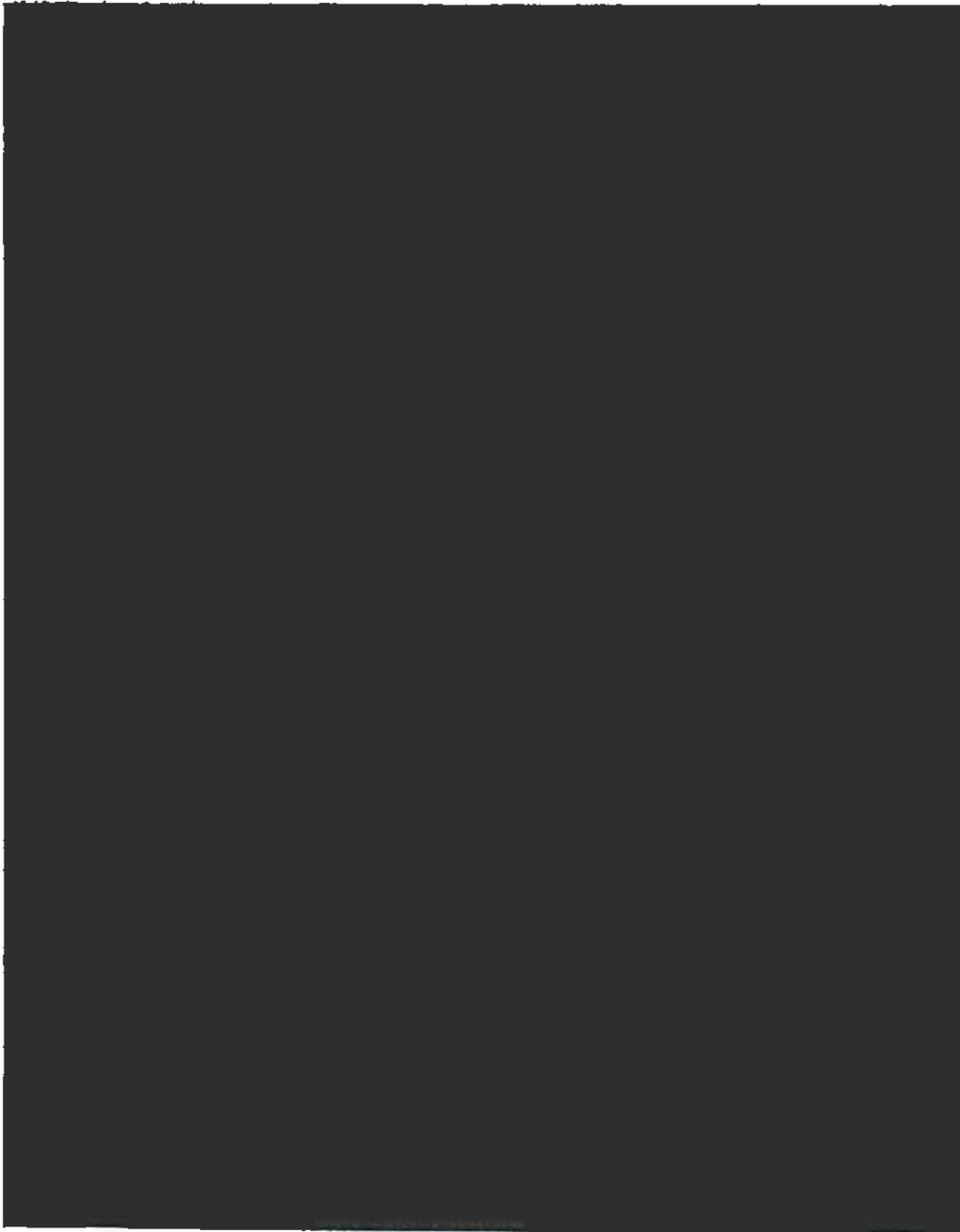
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ISN:

[REDACTED] 6 [REDACTED]

Name: KAYNAZ, MURAT

Country: Turkey



~~SECRET // NOFORN~~

700115

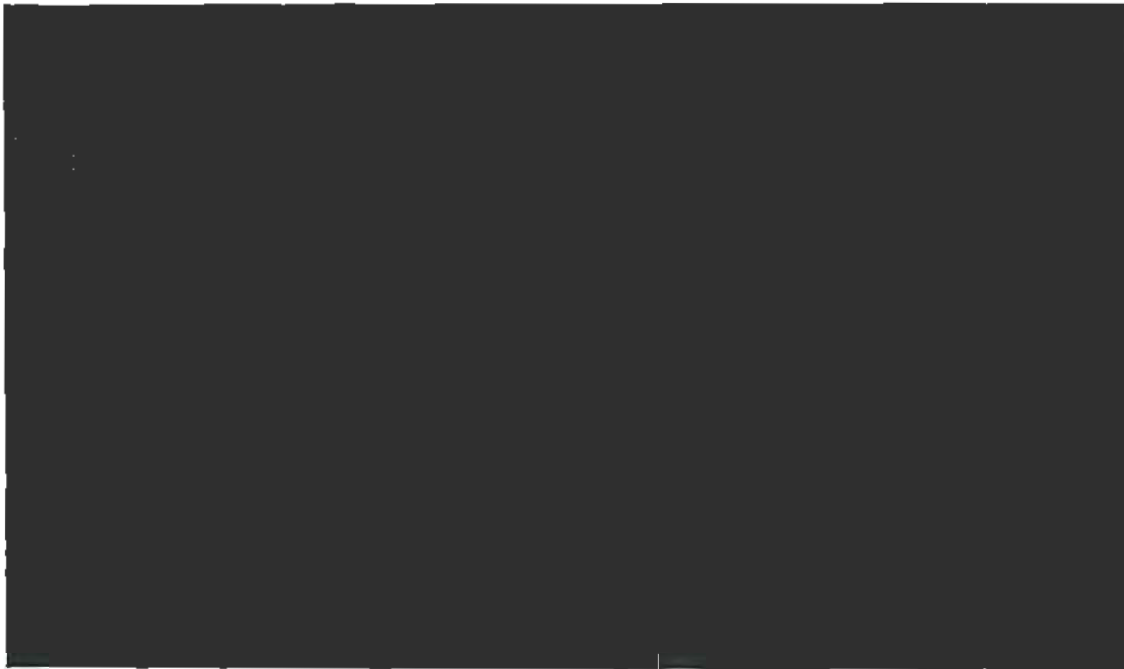
Page 3 of 7

~~SECRET // NOFORN~~

ISN: [REDACTED] 061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey



Intel Assessment

Level [REDACTED]



FBI Assessment (FOOTNOTE 1)

Threat Assessment

Level [REDACTED]

~~(FOUO/LES)~~ Threat Assessment: There is no information that the detainee received any military training or is associated with the Taliban or al Qaida. Although he has denied being a member of Jamaat Tablighi, his associates, travel, and religious studies contradict this denial. For these reasons, the detainee is believed to pose a [REDACTED] threat to the national security of the United States and its Allies if released.

~~(FOUO/LES)~~ FBI Interest: A review of FBI records conducted to date leads to the conclusion the FBI has no investigative interest in this detainee, Murat Karnaz, ISN [REDACTED] 061 [REDACTED]



CITF (FOOTNOTE 4)

~~SECRET // NOFORN~~

700116



ISN: [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

~~(S//NF)~~ Recommendation: [REDACTED]

~~(S//NF)~~ Threat Assessment: [REDACTED]

USSOUTHCOM (FOOTNOTE [REDACTED])

N/A

JTF GTMO (FOOTNOTE [REDACTED])

Threat Assessment Level [REDACTED]

[REDACTED]

Intel Assessment Level [REDACTED]

[REDACTED]

~~SECRET // NOFORN~~

ISN: [REDACTED] 061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

~~SECRET~~ The detainee can provide information on [REDACTED]

Home State Information

N/A

Other Agency Information

N/A

~~SECRET // NOFORN~~

700118

ISN: [REDACTED] 061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey

FOOTNOTES

- 1 DASD-DA, 10/17/2005, (U) DoD Assessment
- 2 [REDACTED]
- 3 FBI, 8/24/2005, (U) Administrative Review
- 4 CITE, 5/19/2003, (U) Assessment
- 5 USSOUTHCOM, (U) Not Provided
- 6 JTF GTMO, 8/2/2005, (U) Recommendation
- 7 OARDEC, 10/15/2004, (U) Review of CSRT
- 8 JIFSOUTH, 2/21/2002, (U) Knowledgeability Brief
- 9 JIFSOUTH, 2/16/2002, (U) [REDACTED]
- 10 FBI, 3/20/2002, (U) FD 302
- 11 CITE, 3/4/2003, (U) FM 40
- 12 FBI, 4/19/2003, (U) FD 302
- 13 JIFSOUTH, 3/17/2004, (U) IIR [REDACTED]
- 14 [REDACTED]

~~SECRET//NOFORN~~

INFO MEMO


I-05/013500-DA

MEMORANDUM FOR DESIGNATED CIVILIAN OFFICIAL,
OFFICE FOR THE ADMINISTRATIVE REVIEW OF THE
DETENTION OF ENEMY COMBATANTS AT U.S. NAVAL
BASE GUANTANAMO BAY, CUBA

FROM: ^{Dr} Matthew C. Waxman, Deputy Assistant Secretary of Defense for Detainee Affairs

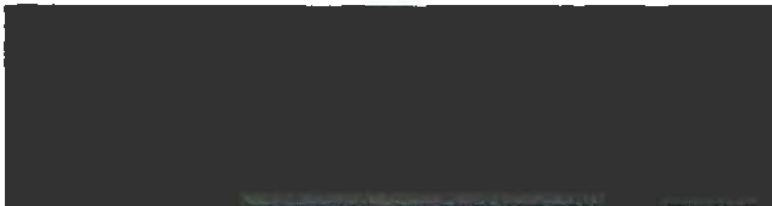
 4/17/05

SUBJECT: DoD assessments submitted to the Administrative Review Board (ARB) on the disposition of 7 Guantanamo Detainees - ARB 40 (S)

(S) In accordance with the ARB implementing directive (see paragraph 3, Tab A), DoD provides the following information and assessments regarding seven (7) detainees proposed for ARB proceedings. DoD's assessment of the detainees is summarized as follows: 

(S) 

(S//NF)  The following seven (7) detainees (Tabs B-H) are recommended for 



Derived From: 
Reason or Reference: 
Duly Authorized: 

~~SECRET//NOFORN~~

DMO Exhibit 4
Page 1 of 13

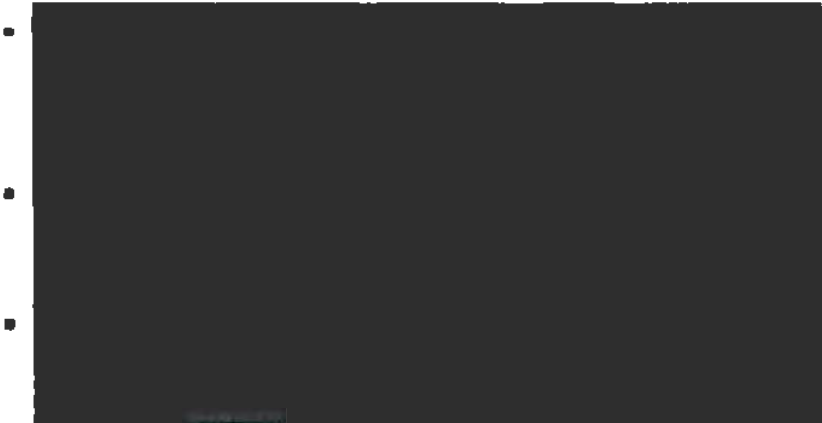
700120

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Turkey (1)

• [REDACTED] 61 [REDACTED] - Akhtar MOHAMMAD (Tab G)

- Assessed as [REDACTED]
- [REDACTED]
- GTMO's assessment states [REDACTED]
- Although he claims Turkish citizenship, the detainee was born and raised in Germany where he attended three mosques.
 - At one of the mosques he met individuals from JT, who convinced him to travel to Pakistan.
 - Detainee claims that in the summer 2001 he decided to go to Pakistan to learn Arabic and increase his knowledge of Islam. (Note: Arabic is not commonly spoken in Pakistan.)
 - On October 3, 2001, detainee and an associate attempted to travel to Pakistan via Frankfurt, Germany.
 - German authorities detained the associate (NET), and the detainee was forced to travel alone.
- [REDACTED]



- o Detainee moved about Pakistan visiting various mosques. While in Islamabad, the detainee claims he met a man named [REDACTED] who asked the detainee to travel to Peshawar to teach the Koran. (Note: The detainee claimed he was going to Pakistan to increase his knowledge of Islam.)
- o Detainee accompanied [REDACTED] from Peshawar to an unknown city for one day. When they attempted to return, [REDACTED] stopped the bus they were riding in and captured the detainee.
- o [REDACTED] transferred the detainee to the control of U.S. forces on or about [REDACTED].
- o Detainee was transferred to GTMO on [REDACTED].
- o Detainee has been compliant while in detention.
- o Detainee may [REDACTED] a candidate for a Military Commission, [REDACTED].
- o [REDACTED]



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DMO Exhibit 13
(Duplicate of 700041-43)

700392-394

DMO Exhibit 14
(Duplicate of 7000181-184)

700395-397

DMO Exhibit 15
(Duplicate of 700186)

700398

DMO Exhibit 16 redacted in full

~~FOUO//LES~~

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of

Transcription:

Investigation on

at

File #

Date dictated

by

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03/04/2003

MURAT KURNAZ, Internment Serial Number (ISN) US9TY-00061DP, born 03/19/2003 in Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba, [REDACTED]

KURNAZ

provided the following information:

KURNAZ advised he was well and agreed to answer questions. He explained that he traveled to Pakistan from Germany in order to learn more about Islam. He traveled on or around 10/03/2001 from Frankfurt to Pakistan. He had decided to travel at that time because his new wife was not yet living with him in Germany. She was in the process of obtaining required travel documents to allow her to travel from Turkey. KURNAZ explained that it would take a long time to get the documents. KURNAZ stated that he did not worry about any war because it was in Afghanistan and he did not believe it involved Pakistan.

KURNAZ was aware of the attacks on 09/11/2001. His initial belief was either an earthquake or an accident occurred. He later witnessed the footage involving the second tower and realized that it was an attack. He implied that he was saddened by the attacks and described the victims as mothers, fathers, sons and daughters. KURNAZ advised that the Quar'an does not teach Muslims to take their own life or to kill others.

KURNAZ learned Islam in Mosques in Germany but wanted to increase his knowledge. He felt the lessons in Germany were slow and wanted to learn more quickly. KURNAZ was planning to go to Pakistan for one to two months. He had planned to return after his training, to Germany, to be with his new wife. He had a plane ticket that would allow him to return to Germany before the end of December 2001. KURNAZ was planning to return to Germany after the end of Ramadan but before Christmas.

KURNAZ stayed in Pakistan longer than initially planned to learn more Islam. He advised he had trouble getting into school. He needed [REDACTED] approval to enter in the school in Lahore, Pakistan. [REDACTED] was the head of the Mosque and school that Kurnaz wanted to attend. When KURNAZ arrived in Lahore, [REDACTED] was not in the city. KURNAZ

03/04/2003

Guantanamo Bay, Cuba

DMO Exhibit 17

PAGE 1 OF 3

700413

~~FOUO//LES~~

~~FOUO//LES~~

03/04/2003

2

On
Page

never met with [REDACTED]. The people at the school would not allow him in because they thought he might be working with the press.

KURNAZ explained that [REDACTED] was trying to help him change his plane ticket so that he could leave Pakistan from Peshawar versus where he arrived (Karachi, Pakistan). [REDACTED] had plans to visit friends in a nearby village (KURNAZ could not recall the name of the village but described it as approximately one and one half hours bus driving time from Peshawar). KURNAZ decided to travel with [REDACTED] to the village. He did not meet [REDACTED] friends but did go to a large mosque and ate in the village. He stayed in a hotel with [REDACTED] and spent time praying. KURNAZ explained that the trip occurred during Ramadar. KURNAZ stated that he was detained while on the bus returning to Peshawar from the village. He had a small bag around his waist with his passport and visa's. KURNAZ was told he would be returned to Germany but ended up with the Americans.

KURNAZ advised that no one asked him to fight. He stated that JAMAYAT TABLIQ did not fight with guns and used words to teach instead. KURNAZ stated that he was not interested in fighting and that it was not his war. KURNAZ advised he saw, in the newspaper and on the Television, people asking for Muslims to support the Holy War for USAMA BIN LADEN. KURNAZ did not believe it was a Holy War and stated USAMA BIN LADEN started it when he attacked the United States. KURNAZ emphasized that Muslims cannot kill people for any reason. KURNAZ was unable to understand the talking at the Mosques and had information translated for him. He advised if there was a person talking about joining in the war he was not made aware of it. KURNAZ advised that the only enemy he was told to fight was Satan. KURNAZ also advised he was a man and no one could tell him to do something he did not want to do.

KURNAZ explained that he was initially traveling from Germany to Pakistan with [REDACTED]. KURNAZ stated that [REDACTED] lied to him. [REDACTED] had said that his dog had bitten someone and he owed money. KURNAZ later learned that [REDACTED] had paid with bad checks.

KURNAZ advised that he did not see people with guns at the mosques in Pakistan. He did see many Police and Military with guns. KURNAZ denied that the JAMAYAT TABLIQ was a Terrorist group.

[REDACTED]

KURNAZ stated he was not upset with the Americans and had American friends. He does not believe it is the Americans fault that

~~FOUO//LES~~

~~FOUO//LES~~

03/04/2003

3

On
, Page

he is in the detention facility at Guantanamo Bay, Cuba. KURNAZ blames the Pakistani's who he believes sold him the Americans for money.

KURNAZ advised that if he were released he would bring his wife to Germany. He also plans to get a job a buy a motorcycle. KURNAZ also expressed desire to spend time with his family.

PAGE 3 OF 3

~~FOUO//LES~~

700415

DMO Exhibit 18 redacted in full

700416-417

~~FOUO//LES~~ - 1 -

FEDERAL BUREAU OF INVESTIGATION
Date of

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File # _____
by _____

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03/31/2003

MURAT KURNAZ, Internment Serial Number (ISN) [REDACTED] 61 [REDACTED] 20 years of age, place of birth Bremen, Germany, was interviewed at Camp Delta, US Naval Base, Guantanamo Bay, Cuba [REDACTED]

KURNAZ provided the following information:

[REDACTED]
[REDACTED]
[REDACTED] KURNAZ stated [REDACTED]
[REDACTED]
[REDACTED]

KURNAZ stated during the course of the interview that he was not a terrorist. He also claimed to have no association to AL QAEDA or to USAMA BIN LADEN. KURNAZ adamantly refused to answer any other questions.

[REDACTED]

03/31/2003 Guantanamo Bay, Cuba

[REDACTED]

DMO Exhibit 19

PAGE 1 OF 700418

~~FOUO//LES~~

DMO Exhibit 20 redacted in full

700419-423

~~FOUO//LES~~ - 1 -

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06/18/2003

On June 18, 2003,

ISN

[redacted] was interviewed at the U.S. Naval Base, Guantanamo Bay, Cuba [redacted]

[redacted] provided the following information:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

06/18/2003

Guantanamo Bay, Cuba

700424

DMO Exhibit 21

PAGE 1 OF 2

~~FOUO//LES~~

~~FOUO/LES~~

06/18/2003

2

On
, Page

[redacted] said he was a mujahadeen fighter fighting against the Northern

Alliance [redacted]

~~FOUO/LES~~

~~SECRET // NOFORN~~

REFERENCE INFORMATION

(S//NF)	CURRENT AS OF DATE	[REDACTED]	(b)(1) Sec 1.4 C
(S//NF)	DOB	[REDACTED]	
(S//NF)	(b)(2)		
(S//NF)			
(S//NF)	REFERENCE NAME	KUNN, MURAT	
(S//NF)	CURRENT NAME	[REDACTED]	
(S//NF)	LANGUAGE:	English (EM3) German (GM4) Turkish (TL5)	
(S//NF)	CITIZENSHIP:	Turkey	
	ETHNICITY:	No Ethnicity Listed	
(S//NF)	POB/DOB:	3/19/1982 Germany / No Province / Bremen	
(S//NF)	CURRENT CELL:	(b)(1) Sec 1.4 C	
(S//NF)	TEAM:	(b)(2)	
(S//NF)	LAST INTERVIEW:	(b)(2)	

ALIASES

CLASS	NAME	SOURCE
(S//NF)	KARNAZ, MURAT (b)(2)	(b)(2)
(S//NF)	KUNN, MURAT Alias	
(S//NF)	KURNAZ, MURAT (b)(2)	
(S//NF)	MOURAD KOURNAZ (b)(2)	

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700426

~~SECRET//NOFORN~~

DETAINEE HIGHLIGHTS

Age: 24
Date of Birth: 3/19/1982
Place of Birth: Germany | No Province | Bremen
Circumstances of Capture:

Background:
2005Oct25)ISN-061 is a 23-year old male who claims Turkish citizenship. He speaks relatively good English, although sometimes his speech is garbled. This might simply be due to his uncertainty of the english words to get his point across.

History:

DETAINEE SUMMARY

JTF GTMO recommends this detainee for [REDACTED]

Unless otherwise noted, the following paragraphs are based solely on statements of Karnaz. --

a. Prior History: Karnaz was born & raised in Germany, but claims Turkish citizenship. He attended three Mosques while in Germany: The Quba Mosque, Abu Baket (variant Abu Baker/Bakr) Mosque, & the Fahti Mosque. An individual named [REDACTED] was the Imam of the Quba Mosque. Karnaz also met individuals from the Jama'at Tablighi (aka JT) at the Quba Mosque & listened to them preach for a six month period before traveling to Pakistan. He met two JT members, [REDACTED] & [REDACTED]. In Summer of 2001, Karnaz claims he decided to travel to Pakistan to learn Arabic & increase his knowledge of Islam.

b. Recruitment & Travel: On 3 October 2001, Karnaz & associate [REDACTED] attempted to travel to Pakistan via Frankfurt, GM. German authorities detained [REDACTED] at the airport, & Karnaz was forced to travel alone to Pakistan. Throughout his travels in Pakistan, he sought assistance from members of the JT. After Karnaz arrived in Pakistan, he stayed in various guesthouses in Islamabad; from there he traveled to Lahore, PK.

After speaking with members of JT, he stayed at an unidentified guesthouse. Karnaz then traveled to Karachi, PK, & over a two to three week period resided in four mosques. Members of the JT informed him about a mosque in Islamabad, so Karnaz returned to Islamabad where he stayed at the recommended mosque, as well as two other mosques. According to Karnaz, an associate named [REDACTED] requested he travel to Peshawar to teach the Koran.

Page 2 of 13

~~SECRET//NOFORN~~

7004277

c. Capture Information: (b)(6),(b)(1) Sec 1.4 C
(b)(2),(b)(6),(b)(1) Sec 1.4 C

d. Transferred to JTF GTMO: (b)(2),(b)(1) Sec 1.4 C

e. Reasons for Transfer to JTF GTMO: (b)(1) Sec 1.4 C
(b)(1) Sec 1.4 C

ANALYST and INTERROGATOR INTELLIGENCE FOCUS

Age: 24 Date of Birth: 3/19/1982 Place of Birth: Bremen Germany No Province

Circumstances of Capture: (b)(6),(b)(1) Sec 1.4 C
(b)(6),(b)(1) Sec 1.4 C

Background:

(b)(2) Karnaz is a 23-year old male who claims Turkish citizenship. He speaks relatively good English, although sometimes his speech is garbled. This might simply be due to his uncertainty of the english words to get his point across.

(b)(1) Sec 1.4 C

History:

(b)(2),(b)(1) Sec 1.4 C

POSSIBLE APPROACH: (b)(5),(b)(1) Sec 1.4 C

(b)(5),(b)(1) Sec 1.4 C

700428

(b)(5)(b)(1) Sec 1.4 C

INTEL GAPS:

(b)(1) Sec 1.4 C

1. (b)(1) Sec 1.4 C

(b)(1) Sec 1.4 C

a. (b)(1) Sec 1.4 C

(b)(1) Sec 1.4 C

b. (b)(1) Sec 1.4 C

c.

d.

e.

f.

INTREP ACTIVITY

CLASS	DATE/TIME	CATEGORY	EVENT
(S//NF)	(b)(2)	(b)(2) Detainee Note	ISN#000061 (b)(1) Sec 1.4 Block guards observed what appeared to be green paint chips on the right hand of detainee. Detainee was removed from his cell for a cell search. Upon conducting cell search it was discovered detainee's cell bed had recently been painted and the paint had not completely dried. Detainee's blue mattress contains spots of green paint. Detainee was issued a new smock and sheet. No contraband was found. Detainee was returned to his cell without further incident.
(S//NF)		Detainee Note	ISN#000061 (b)(1) Sec 1.4 detainee refused underwear.
(S//NF)		Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A Detainee refused shower and rec. Cell search conducted. no contraband found
(S//NF)		(b)(2) Other	ISN#000061 (b)(1) Sec 1.4 Detainee was observed not praying with others during evening prayer
(S//NF)		Other	ISN#000061 (b)(1) Sec 1.4 Detainee issued 1 large bar of soap, 1 pair of ear plugs, 1 prayer cap, 1 prayer rug and 1 set of prayer beads.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 1 serving vegetable stew, 1 serving squash, 1 serving rice, 2 salt, 2 pepper, 2 butter, 1 slice watermelon, 1 roll, 1 box chocolate milk, 1 box apple juice, and 24oz bottled water.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (2) Portions of fish (1) Portion of rice (1) Portion of veggies (3) Slices of bread (1) Apple (1) Juice (1) Chocolate milk (1) Water (2) Each salt, pepper.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 portion scrambled eggs, 1 p/b bread, 2 milks, 1 slice of cantalope, 1 tea, 1 water bottle, 2 honey, 2 sugars, 2 salt, 2 pepper.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (1) Portion of rice, (1) Portion of beans, (1) Pear, DRANK (1) Chocolate milk, (1) 24oz bottle of water, (1) Cup of juice.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Detainee consumed: (1) chicken breast, (1) portion

700429

	b)(2)		of salad, (1) pizza bread, (1) orange, (2) juice, (1) 24oz water, (2) butter, (2) salt, (2) pepper
(S//NF)		b)(2)	DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Deceased consumed: (3) muffin, (1) cereal, (2) box of milk, (1) cup coffee, (3) 24oz water, (2) grape jelly, (2) creamer, (2) sugar.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Deceased ate the following from his dinner meal: (2) portions of fish (1) portion of veggies (1) Pita bread (1) Banana (1) Chocolate milk (1) Juice (1) Water (2) Fish catsup, salt, pepper
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) portion of meatloaf, (1) portion of seaweed vegetables, (1) bread roll, (1) banana, (1) water bottle, (2) juice drinks, (2) butter packets, (2) salt packets, (2) pepper packets.
(S//NF)			Refused Shower/Rac ISN#000061, [b)(1) Sec 1.4 A] Refused shower. Cell search conducted. No contraband found.
(S//NF)		b)(2)	DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) bread, (1) slice cheese, (2) packets of honey, (2) packets of creamer, (2) packets of sugar, (1) cup of coffee, (1) cereal, (1) banana, (2) milk
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] (2) portions fish, (1) portion pasta, (2) butter packets, (2) salt packets, (2) pepper packets, (1) orange, (2) orange juice, (1) 24oz bottle of water
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Ate (1) portion scrambled eggs, (2) jelly packets, (2) sugar packet, (2) salt packets, (2) pepper packets, (1) cup of tea, (1) milk, (1) 24oz bottle of water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (2) fish patties, (1) portion seaweed, (1) apple juice, (1) chocolate milk, (1) bread bun, (1) 24oz water, (2) salts, (2) peppers, (2) ketchup.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: 1 portion of Spaghetti and sauce, 1 portion of salad, 1 orange, 1 cup of juice, 1 bottle of water, 2 butter, 2 salt, 2 pepper.
(S//NF)		b)(2)	Other ISN#000061, [b)(1) Sec 1.4 A] While walking the block, [b)(1) Sec 1.4 A] (1) SN#000061, asked (b)(2), (b)(3), 10 USC § 130b, (b)(6), (b)(1) Sec 1.4 A
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: 1 bread, 2 honey, 2 peanut butter, 2 milk, 2 sugar, 2 creamer, 1 cup of grapes, 1 cereal, 1 coffee, 1 bottle of water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) Serving of pasta, (1) Serving of salad, (2) Butter packets, (2) Pepper, (2) Salt, (1) Pear, (1) Chocolate milk, (1) Apple juice, (1) Bottle of water
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) PIECE OF CHICKEN BREAST, (1) PORTION OF STEWED VEGGIE, (2) PORTION OF RICE, (2) SALT, (2) PEPPER, (2) BUTTER, (1) ORANGE, (2) GRAPE JUICES AND (1) BOTTLE OF WATER.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Ate: (3) hardboiled eggs, (1) cereal, (2) milk, (2) jellies, (2) sugars, (2) creamers, (2) salt, (2) pepper, (1) coffee, (1) bottle of water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) portion noodles, (2) pieces fish, (1) portion squash & tomatoes, (2) pieces bread, (1) piece watermelon, DRAMEC (1) box chocolate milk, (1) 8oz juice drink, (1) 24oz bottle of water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Ate: (2) meatballs, (1) portion of french fries, (1) portion of mixed vegetables with tuna, (1) orange, (1) tub of (2) salt, (2) pepper, (1) butter, (2) orange juice boxes, (1) bottle of water
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Ate: (1) bagel, (1) cereal, (1) pear, (2) jelly packets, (2) cream cheese packets, (2) creamer, (2) sugar, (2) milk, (1) coffee, (1) bottle water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] ATE: (1) portion of beef stew, (1) mix vegetables, (1) sub roll, (1) apple, (1) juice, (1) chocolate milk, and (1) water.
(S//NF)			DOI Ate Meal ISN#000061, [b)(1) Sec 1.4 A] Ate: (1) Water Bottle, (2) Salt and Pepper packets, (1) Bun, (1) Portion of salad, (1) Chicken breast, (1) Portion of French Fries, (1) Orange and (2) Orange Juices.

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(S//NF)	(b)(2)	(b)(2)	DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: (1) Portion of Eggs, (1) Pita bread, (2) Honey, (2) Sugars, (2) Salt and Pepper packets, (2) Milks, (1) Water bottle and (1) Honey dew melon
(S//NF)			Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A Detainee authorize shower. Detainee refused shower. Cell search conducted. No contraband found.
(S//NF)		(b)(2)	DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) Pear, (1) Portion of fish, (1) 24oz bottle water (2) Salt packet, (2) Pepper packet, (2) Ketchup packet.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 cauliflower, 1 beef patty, 2 butter, 2 salt, 2 pepper, 1 bread loaf, 2 orange juice boxes, 1 orange, and 1 24oz bottle of water.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 muffin, 1 cereal, 1 apple, 1 coffee, 2 milk, 2 grape jelly, 2 creamer, 2 sugar, and 1 bottle of water.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 portion beans, 1 portion salad, 1 banana, 2 butter, 2 salt, 2 pepper. DRANK: 1 24oz bottle of water, 1 chocolate milk.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) chicken breast, (2) portion of noodles, (1) banana, (2) slices of bread, (2) packets of salt, (2) packets of pepper, (2) packets of butter, (2) orange drinks, (1) bottle of water.
(S//NF)		(b)(2)	Verbal Commo - Same /Cross Block	ISN#000061 (b)(1) Sec 1.4 A After ISN# (b)(1) Sec [redacted] all started speaking with each other in Arabic. The detainees all seemed to become more active and talkative on the block when (b)(6), (b)(1) Sec [redacted] was escorted off of the block.
(S//NF)		(b)(2)	DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) bread roll, (2) slices of cheese, (2) packets of honey, (2) milk, (1) cereal, (2) packets of creamer, (2) packets of sugar, (1) banana, (1) coffee, (1) bottled water
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A Detainee did not pray at evening prayer call
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Detainee consumed the following from his evening meal: (2) Portions of baked fish (1) Portion of mixed veggies (1) Apple (2) Slices of wheat bread (1) Milk (1) Juice (1) Water (2) Each catsup, butter, salt, pepper
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) MEATBALLS, (1) PORTION OF STEWED VEGGIES, (1) PORTION OF RICE, (2) APPLE JUICES, (1) ORANGE, (1) BREAD.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) PORTION OF SCRAMBLED EGGS, (1) PORTION OF POTATOES, (1) MILK, (1) CUP OF TEA, (2) MILK, (1) PITA, (1) PEAR.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (2) portion mixed vegetables, (1) portion eggplant, (1) portion rice, (1) bread roll, (2) apple, (1) 8oz orange drink, (1) 8oz chocolate milk
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) Portion chicken teriyaki, (1) portion salad, (2) Piece garlic toast, (2) Apple juice boxes, (1) Orange, (2) Salt and Peppers and (1) Bottle of Water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: (1) Raisin Bran Crunch cereal, (1) portion of mixed grapes, (1) bread loaf, (2) peanut butter packets, (2) honey packs, (2) sugar, (2) creamer, (2) milk, (1) 24oz bottle of water, and (1) cup of coffee
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: 2 meatballs, 1 serving of vegetable stew, 2 pieces of bread, 1 orange, 2 salt, 2 pepper, 2 ketchup, 2 orange drinks, 1 water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: 3 boiled eggs, 3 pieces of bread, 1 cereal, 1 apple, 2 milks, 1 coffee and 1 water
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A Detainee not praying with the block during prayer call.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (1) MIXED VEGETABLES WITH TUNA, (1) SQUASH CASSEROLE, (1) PEAR, (1) SUB ROLL, (2) SALTS, (2) PEPPER, (2) BUTTERS, (1) APPLE JUICE, (1) CHOCOLATE MILK, (1) BOTTLE WATER
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (1) chicken, (1) mixed vegetables, (1) orange, (1) banana (2) salts (2) peppers and 24oz bottle of water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) jelly's, (2) milks, (1) Cereal, (1) Pear, (1) Syrup, (2) Sugars, (2) Creamers, (1) Coffee and (1) Water Bottle.

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(S//NF)	(b)(2)	(b)(2)	DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate (2) Pieces of Fish, (1) Apple, (2) Butters, (2) Salts, (2) Peppers, (1) Milk, and (1) Apple Juice.
(S//NF)			Contraband	ISN#000061 (b)(1) Sec 1.4 A with Detainee was being escorted out of rec yard MP (#00655) noticed that the detainee (b)(1) ISN#000061 had a pair of altered pants that was cut at the bottom and not hemmed so MP confiscated the pants and a (b)(1) and a (b)(2) was generated. Detainee was issued a new pair of pants, altered pants was placed in (b) laundry bin.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A (1) Beef patty, (2) Tomato slices, (1) Portion of lettuce, (1) Portion of French fries, (1) Au. (1) Orange, (2) Orange drink, (1) 24oz bottle of water, (2) Mayo packets, (2) Ketchup packets, (2) Salt packets, (2) Pepper packets
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A (1) Portion of scrambled eggs, (1) Fta, (1) Portion of melon, (1) Coffee, (2) Milk, (2) Honey packets, (2) Sugar packets, (2) Pepper packets, (2) Salt packets.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE (1) portion of rice, (1) portion of mixed vegetables, (1) portion of beans, (1) pear, (1) bread loaf, (2) container of chocolate milk, (1) container of apple juice, (1) bottle of water
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 Ate: (1) portion of chicken and mushrooms, (1) salad, (1) pea bread, (1) orange (2) juice boxes, (2) salts, (2) peppers, (1) water bottle.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate (1) muffin (1) pear (1) coffee (2) milk (2) jelly (2) creamers (2) sugars (1) water bottle
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A (1) Portion of stuffed flounder, (1) Portion of salad, (1) Apple, (1) Chocolate milk (1) Apple juice, (2) Salt packets (2) Pepper packets
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 (1) large meatball, (1) Bread loaf, (1) Banana.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A (1) Bread loaf, (4) Slices of cheese, (2) Honey packet, (2) Milk, (1) Cup of coffee.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 squash, 1 bean loaf, 1 hamburger bun, 1 apple, 1 chocolate milk, 1 bottle of water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A 1 chicken breast, 2 butter, 2 salt, 2 pepper 1 orange, 1 portion of pasta with tomatoes, 2 apple juice, and 1 24oz bottle of water.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A 1 pea bread, 2 jelly, 2 salt, 1 pepper, 1 portion of scrambled eggs, 1 milk, 1 cup of tea and 1 24oz bottle of water.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate (2) Fish Patties (1) Portion of Potatoes, (1) Portion of Tuna and Veggie, (1) Apple, (1) Milk, (1) Orange Juice, (1) Hamburger Bun, (2) Pepper Packets, (2) Salt Packets, (1) Bottled water and (2) Butters.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: 1 serving of meat sauce, 1 serving of salad, 2 salt, 2 pepper, 2 butter, 1 orange, 2 apple juice boxes, 1 24oz bottle of water.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 1 bread loaf, 4 packets of peanut butter, 4 packets of honey, 4 sugars, 1 portion of grapes, 1 bowl of raisin bran crunch cereal, 2 milks, 1 watermelon, 1 yogurt, 1 cup of coffee and 1 24oz bottle of water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: (1) portion of spaghetti, (1) portion of salad (1) bread (1) pear (1) apple juice (1) milk (1) 24oz bottle of water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Detainee ate: 2 chicken breast, 2 portions of rice, 2 portions of vegetable stew, 2 oranges, 2 yogurts, and 2 apple juices.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: 1 apple, 2 milks, 1 cup of coffee, 1 cereal, 3 boiled eggs, 2 creamer, and 2 sugars.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) pieces of fish, (1) serving noodles, (1) serving of squash, (2) piece of watermelon, (2) milk, (1) juice, (1) water
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) meatballs, (1) portion french fries, (1) portion veggie, (1) loaf bread, (2) butters, (2) packets of salt, (2) packets of pepper, (2) juice boxes, (1) orange.
(S//NF)			DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) Bagel, (2) Packets of Cream Cheese, (2) Creamers, (2) Sugars, (2) Packets of Jelly, (1) Bowl of Raisin Bran Crunch Cereal,

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(S//NF)	(b)(2)		(2) 8.45 oz Boxes of Milk, (1) Cup of coffee, and (1) 24oz bottle of water.
(S//NF)		(b)(2) DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) Portion of beef stew, (1) Portion of mixed veggies, (1) orange juice, (1) chocolate milk, (1) pear, (1) Bread loaf, (2) rolls, (2) peppers, and (2) butters.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: Detainee consumed the following: (1) Portion chicken breast, (1) Portion french fries, (1) Small salad, (1) Hamburger style bun, (1) Orange, (2) Apple juice boxes and (1) 24oz bottle of water
(S//NF)		Other	ISN#000061 (b)(1) Sec 1.4 A Did not participate in afternoon prayer
(S//NF)		Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A Detainee refused shower. Cell search conducted, no contraband found.
(S//NF)		(b)(2) DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) Portion scrambled eggs with cheese, (1) Pita bread, (1) Slice of honey dew, (2) cup of coffee, (2) Boxes of milk, (2) yogurt, (2) Packs of honey, (2) Packs of sugar, (2) Packs of butter, (1) 24oz bottle of water
(S//NF)		Other	ISN#000061 (b)(1) Sec 1.4 A While (b)(1) was being escorted down the tier by (b)(1) Sec 1.4 A ISN#000061 called the (b)(1) Sec 1.4 A over to his cell and stated that detainee (b)(1) Sec 1.4 A was going to throw feces and/or urine on another detainee while that detainee was being escorted past his cell en route to shower and rec. The detainee to receive the assault was not identified
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) servings of ground beef, (1) orange, (1) 24oz water, (2) yogurts
(S//NF)		Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A Detainee refused shower. Cell search conducted, no contraband found
(S//NF)		(b)(2) DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (3) muffin, (2) packs of sugar, (2) packs of creamer, (2) packs of jelly, (2) boxes of milk, (1) 24oz bottle of water, (2) cup of tea.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) portion chick peas, (1) portion stewed vegetables, (1) portion rice, (1) banana, (1) bread loaf, (1) apple juice, (1) choc milk, (2) bottle of water, (2) butter, (2) salt.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) portion of noodles (1) banana, (2) slices of bread, (2) salts, (2) peppers, (2) butters, (1) 24oz water bottle.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (1) breadloaf, (2) slices of cheese, (1) bowl of cereal, (1) banana, (2) 8.5 boxes of milk, (2) honey packs, (2) sugar packs, (2) cream packs, (1) 24 oz bottle of water, (1) cup of coffee
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Detainee ate evening meal consisting of: (2) pieces of fish, (1) portion of salad, (2) slices of bread, (2) salt, pepper and butter packets, (1) cup of grapes, (1) yogurt, (1) oatmeal cookie, (1) chocolate milk and cup of juice, (1) 24oz water bottle.
(S//NF)		Contraband	ISN#000061 (b)(1) Sec 1.4 A While conducting cell search in (b)(1) during detainees move over to (b)(1) Sec 1.4 A found 1 orange in his blanket wrapped in it. Contraband was confiscated (b)(1) Sec 1.4 A were notified.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: (2) meat ball, (1) portion of rice, (1) portion of green beans w/ tomato, (2) Butters, salt & pepper, (1) apple, (2) apple juices, (1) 24oz water.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Ate: 1-portion of jalapeno w/ tomato eggs, 1-milk 1-coffee 1-24oz water
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A Stewed vegetables, 1 veal packet, 3 serving of rice, 1 bread loaf, 1 piece of cheese, 1 yogurt, 1 vegetable soup, 1 bun, 1 olive oil, 1 salad, 1 piece of watermelon, 1 apple, 1 chocolate milk, 1 apple juice, 1 water.
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 2 garlic breads, 1 serving of salad, 2 salt, 2 pepper, 2 butters, 1 orange, and 2 24 oz bottle of water
(S//NF)		DOI Ate Meal	ISN#000061 (b)(1) Sec 1.4 A ATE: 2 bread loaf, 1 cereal, 1 cantaloupe, 4 peanut butter, 4 nonfat, 4 sugars, 4 creamers, 2 milks, 3 24oz bottle of water, 1 yogurt, and 2 coffee.

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(S//NF)	(b)(2)	(b)(2)	PT In Cell	ISN#000061	(b)(1) Sec 1.4 A	Working out in bed.
(S//NF)			DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE: (1) half bread roll, (2) pear, (1) portion rice, (1) portion fish, (2) butter packets, (2) salt packets, (2) pepper packets DRINK: (1) 8oz box grape drink, (2) 8oz box chocolate milk, (1) 24oz bottle water.
(S//NF)			DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE: Detainee consumed the following: (2) Raisins, (1) Boxes of grape juice, (2) Slices of bread, (1) orange and (1) 24oz bottle of water.
(S//NF)			Refused Shower/Rec	ISN#000061	(b)(1) Sec 1.4 A	Detainee refused shower.
(S//NF)		(b)(2)	DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE: (3) hard boiled eggs, (2) slices of bread, (1) rabin bran cereal, (2) milk, (1) coffee, and (2) grape jelly.
(S//NF)			DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	Ate: (1) Portion of Rice, (1) Portion of Squash, (1) Portion of Tuna/Veggie mix, (1) Bread loaf, (1) Watermelon, (1) Milk, (1) Juice and (1) Hard Water.
(S//NF)			DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE (1) piece of chicken (1) orange (2) salts (2) peppers (2) butters (1) juice (1) water bottle
(S//NF)			DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE: 2 waffles, 2 jelly, 2 sugar, 2 creamer, 1 syrup, 1 cereal, 1 apple, 1 milk, and 1 24oz bottle of water
(S//NF)			Weight	ISN#000061	(b)(1) Sec 1.4 A	
(S//NF)			Detainee Note	ISN#000061	(b)(1) Sec 1.4 A	Refused all linen exchange.
(S//NF)			DOI Ate Meal	ISN#000061		Consumed evening meal consisting of (1) portion fish, (1) portion rice, (1) slices bread, (1) pears, (1) milk, and (1) juice, (1) hard water.
(S//NF)			Refused Shower/Rec	ISN#000061	(b)(1) Sec 1.4 A	Refused shower
(S//NF)		(b)(2)	DOI Ate Meal	ISN#000061	(b)(1) Sec 1.4 A	ATE: (1) Hamburger, (1) Serving of french fries, (1) Hamburger Bun, (1) 24oz bottle of water.
(S//NF)			Refused Meal	ISN#000061	(b)(1) Sec 1.4 A	REFUSED MEAL
(S//NF)			Refused Shower/Rec	ISN#000061	(b)(1) Sec 1.4 A	DETAINEE REFUSED REC
(S//NF)		(b)(2)	Other	ISN#000061	(b)(1) Sec 1.4 A	DETAINEE NOT OBSERVED PRAYING DURING BLOCK PRAYER, DETAINEE WAS PLAYING WITH HIS HAIR.
(S//NF)			Contraband	ISN#000061	(b)(1) Sec 1.4 A	CELL SEARCH CONDUCTED, CONFISCATED ONE WATER BOTTLE, AND ONE TOOTH BRUSH
(S//NF)			Contraband	ISN#000061	(b)(1) Sec 1.4 A	WHILE CONDUCTING CELL SEARCH OF (b)(1) ISN#000061 (b)(3) 10 CONFISCATED 1 APPLE, 3 KETCHUP PACKETS, 1 JELLY, AND 1 CREAMER.
(S//NF)			Contraband	ISN#000061	(b)(1) Sec 1.4 A	CONDUCTED A CELL SEARCH AND CONFISCATED THE FOLLOWING ITEMS: 42 PIECES OF PAPER WITH FOREIGN AND ENGLISH WORDS ON THEM THAT APPEAR TO BE COMPUTER NEWS ARTICLES. THESE PAPERS WERE FOUND INSIDE A VANILLA PILLS FOLDER WITH THE WORDS AMNESTY INTERNATIONAL ON THE TAB. ALSO RETRIEVED WERE 17 PIECES OF WHITE PAPER WITH FOREIGN WRITING ON THEM. ONE PIECE OF PAPER HAD A DRAWING OF A MAN CHAINED TO A WALL WITH THE HEAD CUT OUT OF THE PAPER
(S//NF)			Refused Shower/Rec	ISN#000061	(b)(1) Sec 1.4 A	REFUSED SHOWER.
(S//NF)		(b)(2)	Refused Shower/Rec	ISN#000061	(b)(1) Sec 1.4 A	Refused shower only.

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(S//NF)	(b)(2)	(b)(2)	Detainee Note	ISN#000061 (b)(1) Sec 1.4 A LINEN EXCHANGE CONDUCTED: (1)PANTS, (1)SHIRT, (1)T-SHIRT, (2)TOWELS, (1)WASHCLOTH AND (1)SHEET.
(S//NF)			Contraband	ISN#000061 (b)(1) Sec 1.4 A WHILE CONDUCTING A CELL SEARCH BLOCK (b)(6)(b)(1) Sec 1.4 A CONFISCATED THE FOLLOWING: (1) EMPTY WATER BOTTLE AND (6) PEPPER PACKETS.
(S//NF)			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A ISN#000061 REFUSED DINNER CHOW
(S//NF)			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A DETAINEE REFUSED LUNCH MEAL
(S//NF)			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A DETAINEE REFUSED BREAKFAST MEAL.
(S//NF)			Refused Meal	ISN#000061 (b)(1) Sec 1.4 A DETAINEE REFUSED LUNCH MEAL.
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A DETAINEE REFUSED HIS HABEAS APPOINTMENT.
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A
(S//NF)			Harassing Guard	ISN#000061 (b)(1) Sec 1.4 A DETAINEE REPEATEDLY HARASSING GUARD (b)(1) BY CALLING OUT HIS NAME EXCESSIVELY AND TRYING TO PROVOKE HIM INTO A CONFISCATION
(S//NF)			Harassing Guard	ISN#000061 (b)(1) Sec 1.4 A PARTICIPATED IN BLOCK HARRASMENT TO (b)(1) (b)(1) BY MAKING DONKEY NOISES AS (b)(6)(b)(1) Sec 1.4 A WALKED DOWN THE TIER.
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 DETAINEE WHISPERED TO (b)(6)(b)(1) THAT HE WAS WORRIED ABOUT HIS BROTHERS THERE ARE 5 DETAINEES ON (b)(1) (b)(1) THAT ARE STARTING TO HUNGER STRIKE TODAY. HE SAID HE WAS CONCERNED AND THAT IS WHY HE WAS TELLING BE BECAUSE A COUPLE OF THEM ARE ALREADY HAVING STOMACH PROBLEMS.
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A CELL SEARCH CONDUCTED. NO ITEMS CONFISCATED
(S//NF)			Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A REFUSED SHOWER AND REC. CELL SEARCH WAS CONDUCTED WITH NBSGATIVE RESULTS.
(S//NF)			(b)(1) Refused Shower/Rec	ISN#000061 (b)(1) Sec 1.4 A REFUSED SHOWER.
(S//NF)		(b)(2)	Banging Cell	ISN#000061 (b)(1) Sec 1.4 A DETAINEE WAS BANGING CELL DURING (b)(1) (b)(1)
(S//NF)			Harassing Guard	ISN#000061 (b)(1) Sec 1.4 A REPEATEDLY GOADED CADRES WITH WORDS LIKE "BITCH" ETC. TRYING TO USE HIS SIZE TO INTIMIDATE.
(S//NF)			Harassing Guard	ISN#000061 (b)(1) Sec 1.4 A DETAINEE ISN#000061 ASKED (b)(3):10 AND (b)(3):10 USC TO UNLOCK THE RECREATION YARD DOOR IF WE WERE MAN ENOUGH HE THEN STATED THAT HIS BICEPS WERE BIGGER THAN OUR HEADS.
(S//NF)			Detainee Note	ISN#000061 (b)(1) Sec 1.4 A DETAINEE WENT TO RESERVATION AND WHEN HE RETURNED HE WAS ANGRY BECAUSE THE BLOCK GUARDS TOOK HIS PEANUT BUTTER OUT OF HIS CELL. HE TOLD (b)(3):10 THAT HE WAS NEW AND HE NEEDED TO LEARN THE RULES BEFORE HE GOT HURT
(S//NF)			Contraband	ISN#000061 Cell (b)(1) Sec 1.4 A WHILE CONDUCTING CELL SEARCH (b)(3):10 CONFISCATED THE FOLLOWING: 1 ORANGE, 1 COFFEE LID, 2 PEANUT BUTTER PACKETS, AND 14 FULL WATER BOTTLES.
(S//NF)			Contraband	ISN#000061 (b)(1) Sec 1.4 A WHILE CONDUCTING CELL SEARCH (b)(3):10 CONFISCATED THE FOLLOWING: 1 ORANGE, 1 COFFEE LID, 2 PEANUT BUTTER PACKETS, AND 14 FULL WATER BOTTLES
(S//NF)			Other	ISN#000061 (b)(1) Sec 1.4 A DETAINEE CALLED (b)(3):10 TO HIS CELL DOOR (b)(2)(b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 A

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	(S//NF)	(b)(2)	WOULD THROW NUMBER 1 OR NUMBER 2 SO THAT HE WOULD GET MOVED ANYWAY. DETAINEE THEN STATED THAT THIS DID NOT NEED TO HAPPEN AGAIN [b](2), [b](6), [b](1) Sec 1.4 A
(S//NF)		14-Instigator	ISN#000061 [b](1) Sec 1.4 A [b](1) SEC 1.4 A INSTIGATED BLOCK RIOT DUE TO WINDOWS BEING CLOSED. DETAINEE STATED HE WANTED BOTH WINDOWS OPEN. BLOCK GUARD [b](3) TO USC [b](1) SEC 1.4 A REPEATEDLY TOLD DETAINEE THAT ONE SIDE MUST BE CLOSED. DETAINEE THREATENED [b](2), [b](6) SAYING YOU WILL HAVE A LONG NIGHT AND STARTED BANGING ON BENCH HOLE, CAUSING THE BLOCK TO FOLLOW SUITE
(S//NF)		29-Weight	ISN#000061 [b](1) Sec 1.4 A WEIGHT 210 POUNDS
(S//NF)		03-Refused Shower/Rec	ISN#000061 [b](1) Sec 1.4 A REFUSED SHOWER.
(S//NF)		99-Other	ISN#000061 [b](1) Sec 1.4 A [b](1) SEC 1.4 A WHILE ASKING [b](1) SEC 1.4 A IF HE WAS READY TO GO WITH THE ESCORT TEAM TO HIS APPOINTMENT HE ASKED ME WHO GAVE YOU THE NAME [b](3), [b](1) IT WAS THEN THAT I NOTICED THAT THE TAPE THAT WAS COVERING MY NAME HAD PARTIALLY COME OFF. I READJUSTED MY TAPE, IT WAS AT THIS POINT THAT [b](1) TOLD ME THAT IF I DID NOT CAUSE ANY PROBLEMS THAT HE WOULD NOT TELL ANYONE MY NAME.
(S//NF)		00-Detainee Note	ISN#000061 [b](1) Sec 1.4 A DETAINEE [b](1) SEC 1.4 A STATED TO CAMP [b](1) SEC 1.4 A THAT YESTERDAY WHEN THE [b] WAS TALKING TO [b](1) ABOUT MOVING, [b](6), [b](1) SEC [b] SAID HE WANTED TO MOVE TO EITHER [b](1) SEC 1.4 A [b] WAS MOVED TO [b](1) SEC 1.4 A [b] TOOK IT AS IF HE WAS GOING TO THROW #1 AND #2 IF HE DIDNT MOVE. HE ALSO STATED HE DOESNT WANT HIM TO BE PUNISHED FOR SOMETHING HE DIDNT SAY [b] TOLD [b](6), [b](1) SEC [b] THAT HE WOULD TAKE CARE OF IT
(S//NF)		00-Detainee Note	ISN#000061 [b](1) Sec 1.4 A DETAINEE STATED TO [b](2) THAT YESTERDAY WHEN THE [b] WAS TALKING TO [b](2) ABOUT MOVING, [b](2) [b](2), [b](6) SAID HE WANTED TO MOVE TO EITHER CELL [b](2) [b] WAS MOVED TO [b](2) AND THE [b](2) TOOK IT AS IF HE WAS GOING TO THROW #1 AND #2 IF HE DIDNT MOVE. HE ALSO STATED THAT HE WANTED THE WRITE UP REMOVED, BECAUSE HE DOESNT WANT TO BE PUNISHED FOR SOMETHING HE DIDNT SAY [b](2), [b](6) ALSO SAID THAT ALL DETAINEES STICK TOGETHER. " I AM NOT THREATENING YOU BUT WE STICK TOGETHER"
(S//NF)		20-Contraband	ISN#000061 [b](1) Sec 1.4 A [b](3) TO WHILE CONDUCTING A CELL SEARCH, [b](3) TO CONFISCATED THE FOLLOWING ITEMS: (1) EMPTY WATER BOTTLES, (3) FULL BOTTLES, (1) BREAD ROLL WRAPPED IN PAPER AND ONE STYROFOAM CUP. ALL ITEMS WERE CONFISCATED AS PER [b](1) GUI DELINES
(S//NF)		99-Other	ISN#000061 [b](1) Sec 1.4 A THREW TRASH AND FOOD ARTICLES ON THE FLOOR DURING DISTURBANCE.
(S//NF)		01-Refused Meal	ISN#000061 [b](1) Sec 1.4 A REFUSED DINNER MEAL.
(S//NF)		99-Other	ISN#000061 [b](1) Sec 1.4 A DETAINEE WAS SCHEDULED FOR RESERVATION AT DET CLINIC. WHEN ESCORTS CAME TO PICK HIM UP HE REFUSED. WHEN ASKED BY [b] WHY HE WAS REFUSING HE STATED THAT HE IS NO LONGER SICK AND THAT HE WAITED FOR TWO WEEKS AND WHEN HE WAS SICK THEY NEVER SAW HIM AND NOW HE IS NOT SICK AND HE DOESNT WANT TO GO. HE STATED THAT HE DOESNT WANT TO SEE THE DOCTORS FACE AND THAT THE DOCTOR AND MEDICAL WERE STUPID. THEY NEVER TAKE THE DETAINEES WHEN THEY ARE ACTUALLY SICK, SO WHAT GOOD ARE THEY?
(S//NF)		00-Detainee Note	ISN#000061 [b](1) Sec 1.4 A DETAINEE WEIGHT 215 LBS
(S//NF)		04-DOI Ate Meal	ISN#000061 [b](1) Sec 1.4 A ATE: (1) portion of squash, (1) loaf of bread, (1) portion watermelon, (2) packages of butter, (2) packages of salt, (2) packages of pepper, (1) 8.45fl oz of orange drink, (1) 8.45fl oz chocolate milk and (1) 240 oz bottle of water.
(S//NF)		04-DOI Ate Meal	ISN#000061 [b](1) Sec 1.4 A (1) chicken breast, (1) serving cucumber & tomato, (2) roma tomatoes, (1) loaf of bread, (2) salt marshes, (2) butter, (2) margarine

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(S//NF)	(b)(2)		packets, (1) orange, (2) apple juice cartons, (1) 24oz Bottle of water.
(S//NF)		(b)(2)	DOI Ate Meal ISN#000061 (b)(1) Sec 1.4 A ATE: (1) waffle, (1) serving of figs, (2) raisin bread crunch cereal, (2) grape jelly, (1) portion of syrup, (4) sugar packets, (2) butter, (1) creamer packets, (2) milk, (1) coffee, (1) 24oz Bottle of water
(S//NF)			DOI Ate Meal ISN#000061 (b)(1) Sec 1.4 A ATE: (2) slices bread, (1) apple (1) orange juice (1) chocolate milk, (1) bottle water.
(S//NF)			DOI Ate Meal ISN#000061 (b)(1) Sec 1.4 A ATE: (1) hamburger, (1) orange, (1) hamburger bun, (2) tomato slices, (1) portion of lettuce, (1) portion of french fries, (2) mustard packets, (2) ketchup packets, Drink (2) 45oz orange drink (2) salt packets, (2) pepper packets (2) butter, (1) 24oz Bottle of water
(S//NF)			DOI Ate Meal ISN#000061 (b)(1) Sec 1.4 A ATE: (1) portion of scrambled egg, (1) honeydew ration, (1) pita bread, (2) honey packets, (2) salt packets, (2) pepper packets, and (2) butters. Drink (2) milks, (1) 24 oz water bottle and (1) cup of coffee.
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NO REASON GIVEN
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING
(S//NF)			Harassing Guard ISN#000061 (b)(1) Sec 1.4 A On (b)(2) at approximately (b)(2) Detainee ISN#000061 verbally harassed (b)(1) Sec 1.4 A (b)(3):1 by telling him to "Shut up, you are a stupid bitch." (b)(1) Sec 1.4 A (b)(3):1 refused to do so (b)(1) Sec 1.4 A modified (b)(3):10 USC of the situation and (b)(2) arrived on scene at (b)(2) and instructed Detainee ISN#000061 to return to his assigned bay, at which time he complied. Detainee is Highly Compliant Date of last offense:
(S//NF)			Harassing Guard ISN#000061 (b)(1) Sec 1.4 A Detainee ISN#000061 was harassing (b)(3):10 by calling him a "bitch" and telling him to "shut up." MP was attempting to get the bays locked down (b)(2) talked to the Detainee and advised him that his behavior is unacceptable and would not be tolerated if continued.
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING.
(S//NF)			Other ISN#000061 (b)(1) Sec 1.4 A REFUSED TO GO TO RESERVATION. HE STATED, "HE DOESN'T WANT TO SEE HIS LAWYER TODAY OR EVER AGAIN."
(S//NF)			Refused Medicines ISN#000061 (b)(1) Sec 1.4 A REFUSED TO SHOT, NO REASON GIVEN
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A BREAKFAST, NO REASON GIVEN
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING
(S//NF)			Detainee Note ISN#000061 (b)(1) Sec 1.4 A On (b)(2) (b)(1) Sec 1.4 A was on (b)(1) Sec 1.4 A block conducting work in the compound Rec area when (b)(2) (b)(6) made the comment to the (b)(2) "You should stop using that Chinese equipment and start using Sony."
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A REFUSED MEAL
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING.
(S//NF)			Other ISN#000061 (b)(1) Sec 1.4 A DETAINEE IS AUTHORIZE 1- PLASTIC 4OZ CONTAINER OF OLIVE OIL, 1-BOZ TUBE OF TOOTH PASTE, 2 PAIRS OF BLACK SOCKS, 1- BULB OF GARLIC, 1- 3OZ CONTAINER OF INSTANT COFFEE, 1- PLASTIC BAG OF BLACK SEEDS, 1- BOZ BAG OF HALLS HONEY-DROPS. (b)(1) Sec 1.4 A WILL REPLENISH ALL ITEMS NEEDED FOR CONTINUOUS USE.
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING
(S//NF)			Failure to Comply ISN#000061 (b)(1) Sec 1.4 A DETAINEE WAS TOLD TO PULL PRAYER RUG OFF

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			THE BULLETIN BOARD. DETAINEE DID NOT COMPLY AND PROCEEDED TO TELL (b)(3):10 TO "SHUT THE FUCK UP AND GO BACK TO YOUR BLOCK YOU HAVE NO AUTHORITY HERE." AFTER HE SAID THIS, DETAINEE (b)(2),(b)(6),(b)(7)(C) JOINED IN ALL THE CONVERSATION, BOTH SAYING THAT (b)(2),(b)(7)(C) HAD NO AUTHORITY ON (b)(1) BLOCK BECAUSE HE WAS THE (b)(1) Sec 1.4 A
(S//NF)	(b)(2)	(b)(2)	Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING BREAKFAST
(S//NF)			Detainee Note ISN#000061 (b)(1) Sec 1.4 A ISN#000061 REFUSED TO GO TO THE DETAINEE CELLS
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A REFUSED MEAL
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A REFUSED BREAKFAST, NO REASON GIVEN
(S//NF)			Refused Meal ISN#000061 (b)(1) Sec 1.4 A NOT OBSERVED EATING.
(S//NF)			Detainee Note ISN#000061 (b)(1) Sec 1.4 A DETAINEE WAS OBSERVED BY (b)(2) MAKING A WEIGHT MACHINE OUT OF SHEETS AND GATORADE CONTAINERS. (b)(2) TOLD DETAINEE TO TAKE THE WEIGHT MACHINE APART. DETAINEE COMPLIED.
(S//NF)			PT in Cell ISN#000061 (b)(1) Sec 1.4 A DETAINEE WAS OBSERVED BY (b)(2) USING THE PICNIC TABLE IN REC YARD WITH MILK STACKED ON TOP OF IT AS A BENCH PRESS. WHEN TOLD TO STOP HE COMPLIED WITH GUARD ORDERS OIC VERBAL WARNING GIVEN
(S//NF)			Teaching/Preaching ISN#000061 (b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 A (b)(2),(b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 A,(b)(1) Sec 1.4 C
(S//NF)		(b)(2)	Refused Meal ISN#000061 (b)(1) Sec 1.4 A DETAINEE WAS NOT OBSERVED EATING.
(S//NF)			Fasting ISN#000061 FASTING
(S//NF)			Fasting ISN#000061 FASTING

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Two page document classified above the
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document, however, was never provided to the detainee, and had he received it, he would have had the opportunity to challenge its credibility and significance. Not only is the document rife with hearsay and lacking in detailed support for its conclusions, but it is also in direct conflict with classified exculpatory documents also not disclosed to the detainee.

Exhibit R19 is a June 25, 2004 memorandum signed by Brigadier General David B. Lacquement and addressed to the Secretary of Defense. Among other comments, the memorandum charges that [REDACTED]

[REDACTED] Kurbaz Factual Return, Exhibit R19 at 2. The only support for this assertion are vague references to [REDACTED]

[REDACTED] Id. While these allegations may very well be true, due process requires that the detainee have some ability to inquire as to the sources of the [REDACTED] and to have the opportunity to address whether he ever traveled to [REDACTED] and whether he even knows, let alone had contact with, [REDACTED]

[REDACTED] The importance of such an opportunity is highlighted by the fact that Exhibit R19 is contradicted by other classified information ignored or discounted by the CSRT without even a hint of an explanation.

For example, an earlier memorandum dated February 24, 2002 revealed that no evidence existed, at least at that time, to indicate that the detainee [REDACTED]

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presumably the requirements to be deemed an "enemy combatant" – and that the detainee "may actually have no Al-Qaida or Taliban association." Kurnaz Factual Return, Exhibit R16 at 1-2. In addition, a September 30, 2004 memorandum from Major [REDACTED] to Lieutenant Colonel [REDACTED] revealed that "CJTF [Criminal Investigative Task Force] has no definite link/evidence of detainee having an association with al Qaida or making any specific threat toward the U.S.," and that "The Germans confirmed that this detainee has no connection to an al Qaida cell in Germany." Kurnaz Factual Return, Exhibit R17. Yet another document the detainee was not permitted to examine and use to contest his "enemy combatant" designation is a May 19, 2003 memorandum from Commanding General Britain P. Mallow to the General Counsel of the Department of Defense. Among other exculpatory statements, the memorandum discloses that "There is no indication that Kurnaz was in direct contact with a Taliban recruiter," that "CJTF is not aware of evidence that Kurnaz was or is a member of al-Qaida," and that "CJTF is not aware of any evidence that Kurnaz has knowingly harbored any individual who was a member of al-Qaida or who has engaged in, aided or abetted, or conspired to commit acts of terrorism against the U.S., its citizens or interests." Kurnaz Factual Return, Exhibit R18.

These three classified documents call into serious question the nature and thoroughness of the prior "multiple levels of review" of "enemy combatant" status referenced in Deputy Secretary of Defense Paul Wolfowitz's July 7, 2004 Order establishing the CSRT system. At a minimum, the documents raise the question of what specific information could have been discovered between the May 19, 2003 memorandum stating that there was no evidence either that the detainee was a member of al Qaida or was in direct contact with any Taliban recruiter, and the

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June 25, 2004 memorandum concluding that the detainee [REDACTED]

[REDACTED] Certainly, the CSRT record lacks sufficient explanation or identification of the [REDACTED] sources for the new evidence, and had the detainee received information regarding the existence and contents of the exculpatory documents, he could have challenged the tribunal to investigate these matters more carefully than it did.

Interpreted in a light most favorable to the petitioners, the CSRT's decision to deem Exhibit R19 the most credible evidence without a sufficient explanation for its rejection of conflicting exculpatory evidence in at least three separate documents supports the petitioners' allegation that the "CSRTs do not involve an impartial decisionmaker." Al Odah Petitioners' Reply to the Government's "Response to Petitions for Writ of Habeas Corpus and Motion to Dismiss," filed in Al Odah v. United States, 02-CV-0828 (CKK), on October 20, 2004, at 23-24. But however the record in Kurrag is interpreted, it definitively establishes that the detainee was not provided with a fair opportunity to contest the material allegations against him.

The Court fully appreciates the strong governmental interest in not disclosing classified evidence to individuals believed to be terrorists intent on causing great harm to the United States. Indeed, this Court's protective order prohibits the disclosure of any classified information to any of the petitioners in these habeas cases. Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, 344 F. Supp.2d 174 (D.D.C. 2004) at ¶ 30. To compensate for the resulting hardship to the petitioners and to ensure due process in the litigation of these cases, however, the protective order requires the disclosure of all relevant classified information to the petitioners' counsel who have the

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appropriate security clearances. *Id.* at ¶¶ 17-34. Although counsel are not permitted to share any classified information with their clients, they at least have the opportunity to examine all evidence relied upon by the government in making an "enemy combatant" status determination and to investigate and ensure the accuracy, reliability and relevance of that evidence. Thus, the governmental and private interests have been fairly balanced in a manner satisfying constitutional due process requirements. In a similar fashion, the rules regulating the military commission proceedings for aliens -- rules which the government so vigorously defended in *Hamdan v. Rumsfeld* -- expressly provide that although classified evidence may be withheld from the defendant, it may not be withheld from defense counsel. *Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism*, 32 C.F.R. § 9.6(b)(3) ("A decision to close a proceeding or portion thereof may include a decision to exclude the Accused, Civilian Defense Counsel, or any other person, but Detailed Defense Counsel may not be excluded from any trial proceeding or portion thereof."). In contrast, the CSRT regulations do not properly balance the detainees' need for access to material evidence considered by the tribunal against the government's interest in protecting classified information.

The CSRT regulations do acknowledge to some extent the detainees' need for assistance during the tribunal process, but they fall far short of the procedural protections that would have existed had counsel been permitted to participate. The implementing regulations create the position of "Personal Representative" for the purpose of "assist[ing] the detainee in reviewing all relevant unclassified information, in preparing and presenting information, and in questioning witnesses at the CSRT." July 29, 2004 Implementing Regulations at Enclosure (1), ¶ C. (3). But

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notwithstanding the fact that the Personal Representative may review classified information considered by the tribunal, that person is neither a lawyer nor an advocate and thus cannot be considered an effective surrogate to compensate for a detainee's inability to personally review and contest classified evidence against him. *Id.* at Enclosure (3), ¶ D. Additionally, there is no confidential relationship between the detainee and the Personal Representative, and the Personal Representative is obligated to disclose to the tribunal any relevant inculpatory information he obtains from the detainee. *Id.* Consequently, there is inherent risk and little corresponding benefit should the detainee decide to use the services of the Personal Representative.

The lack of any significant advantage to working with the Personal Representative is illustrated by the record of Kurnaz. Despite the existence of three exculpatory classified documents, the Personal Representative made no request for further inquiry regarding the undisclosed sources for information contained in the only classified document relied upon by the CSRT and did not make even a single comment highlighting the existence of contradictory classified evidence. Kurnaz Factual Return, Enclosure (5). Clearly, the presence of counsel for the detainee, even one who could not disclose classified evidence to his client, would have ensured a fairer process in the matter by highlighting weaknesses in evidence considered by the tribunal and helping to ensure that erroneous decisions were not made regarding the detainee's "enemy combatant" status. The CSRT rules, however, prohibited that opportunity.

In sum, the CSRT's extensive reliance on classified information in its resolution of "enemy combatant" status, the detainees' inability to review that information, and the prohibition of assistance by counsel jointly deprive the detainees of sufficient notice of the factual bases for

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their detention and deny them a fair opportunity to challenge their incarceration. These grounds alone are sufficient to find a violation of due process rights and to require the denial of the respondents' motion to dismiss these cases.

2. Specific Defects That May Exist in Individual Cases: Reliance on Statements Possibly Obtained Through Torture or Other Coercion and a Vague and Overly Broad Definition of "Enemy Combatant"

Additional defects in the CSRT procedures support the denial of the respondents' motion to dismiss at least some of the petitions, though these grounds may or may not exist in every case before the Court and though the respondents might ultimately prevail on these issues once the petitioners have been given an opportunity to litigate them fully in the habeas proceedings.

a. Reliance on Statements Possibly Obtained Through Torture or Other Coercion

The first of these specific grounds involves the CSRT's reliance on statements allegedly obtained through torture or otherwise alleged to have been provided by some detainees involuntarily. The Supreme Court has long held that due process prohibits the government's use of involuntary statements obtained through torture or other mistreatment. In the landmark case of Jackson v. Denno, 378 U.S. 368 (1964), the Court gave two rationales for this rule: first, "because of the probable unreliability of confessions that are obtained in a manner deemed coercive," and second "because of the 'strongly felt attitude of our society that important human values are sacrificed where an agency of the government, in the course of securing a conviction,

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wrings a confession out of an accused against his will." 378 U.S. at 386 (quoting Blackburn v. Alabama, 361 U.S. 199 (1960)). See also Lam v. Kelchner, 304 F.3d 256, 264 (3rd Cir. 2002) ("The voluntariness standard is intended to ensure the reliability of incriminating statements and to deter improper police conduct."). Arguably, the second rationale may not be as relevant to these habeas cases as it is to criminal prosecutions in U.S. courts, given that the judiciary clearly does not have the supervisory powers over the U.S. military as it does over prosecutors, who are officers of the court. Cf. United States v. Toscamino, 500 F.2d 267, 276 (2d Cir. 1974) (the supervisory power of the district courts "may legitimately be used to prevent [them] from themselves becoming 'accomplices in willful disobedience of law'") (quoting McNabb v. United States, 318 U.S. 332, 345 (1943)). At a minimum, however, due process requires a thorough inquiry into the accuracy and reliability of statements alleged to have been obtained through torture. See Clanton v. Cooper, 129 F.3d 1147, 1157-58 (10th Cir. 1997) ("[B]ecause the evidence is unreliable and its use offends the Constitution, a person may challenge the government's use against him or her of a coerced confession given by another person."); Buckley v. Fitzsimmons, 20 F.3d 789, 795 (7th Cir. 1994) ("Confessions wrung out of their makers may be less reliable than voluntary confessions, so that using one person's coerced confession at another's trial violates his rights under the due process clause.").

Interpreting the evidence in a light most favorable to the petitioners as the Court must when considering the respondents' motion to dismiss, it can be reasonably inferred that the CSRT did not sufficiently consider whether the evidence upon which the tribunal relied in making its "enemy combatant" determinations was coerced from the detainees. The allegations

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and factual return of Mamdouh Habib, a petitioner in Habib v. Bush, 02-CV-1130 (CKK) are illustrative in this regard. Mr. Habib has alleged that after his capture by allied forces in Pakistan, he was sent to Egypt for interrogation and was subjected to torture there, including routine beatings to the point of unconsciousness. Petitioner's Memorandum of Points and Authorities in Support of His Application for Injunctive Relief, filed with the Court Security Officer on November 23, 2004 and on the public record on January 5, 2005. Additionally, the petitioner contends that he was locked in a room that would gradually be filled with water to a level just below his chin as he stood for hours on the tips of his toes. Id. He further claims that he was suspended from a wall with his feet resting on the side of a large electrified cylindrical drum, which forced him either to suffer pain from hanging from his arms or pain from electric shocks to his feet. Id. The petitioner asserts that as a result of this treatment, he made numerous "confessions" that can be proven false. Id. at n.3. According to the classified factual return for Mr. Habib, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] and the CSRT found the allegations of torture serious enough to refer the matter on September 22, 2004 to the Criminal Investigation Task Force. Id., Enclosure (1) at

3. [REDACTED]

[REDACTED] Examined in the light most favorable to the petitioner, this reliance cannot be viewed to have satisfied the requirements of due process.

Mr. Habib is not the only detainee before this Court to have alleged making confessions to interrogators as a result of torture. [REDACTED]

[REDACTED] Notwithstanding the inability of counsel for petitioners to take formal discovery beyond interviewing their clients at Guantanamo Bay, they have introduced evidence into the public record indicating that abuse of detainees occurred during interrogations not only in foreign countries but at Guantanamo Bay itself. One illustration of alleged mistreatment during interrogation by U.S. authorities is Exhibit D to the petitioners' Motion for Leave to Take Discovery and for Preservation Order, filed in several of these cases with the Court Security Officer on January 6, 2005 and filed on the public record on January 10, 2005. In that document, dated August 2, 2004, the author, apparently affiliated with the Federal Bureau of Investigation but whose identity has been redacted, summarized his or her observations of interrogation activities at Guantanamo Bay as follows:

On a couple of occasions [sic], I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated [sic] on themselves, and had been left there for 18-24 hours or more. On one occasion [sic], the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. When I asked the MP's what was going on, I was told that interrogators from the day prior had ordered this treatment, and the detainee was not to be moved. On another occasion [sic], the

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A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious [sic] on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. On another occasion [sic], not only was the temperature unbearably hot, but extremely loud rap music was being played in the room, and had been since the day before, with the detainee chained hand and foot in the fetal position on the tile floor.

The identities of the detainees referenced in this document are unknown to the Court and therefore, it is not certain whether they are even petitioners in any of these cases and, if so, whether the results of the above-described interrogations were used against them in CSRT

proceedings. Of course, the veracity of Exhibit D itself must be investigated before it can be definitively relied upon. Indeed, at this stage of the litigation it is premature to make any final determination as to whether any information acquired during interrogations of any petitioner in these cases and relied upon by the CSRT was in fact the result of torture or other mistreatment. What this Court needs to resolve at this juncture, however, is whether the petitioners have made sufficient allegations to allow their claims to survive the respondents' motion to dismiss. On that count, the Court concludes that the petitioners have done so.

b. Vague and Overtly Broad Definition of "Enemy Combatant"

Although the government has been detaining individuals as "enemy combatants" since the issuance of the AUMF in 2001, it apparently did not formally define the term until the July 7, 2004 Order creating the CSRT. The lack of a formal definition seemed to have troubled at least the plurality of the Supreme Court in *Hamdi*, but for purposes of resolving the issues in that case, the plurality considered the government's definition to be an individual who was "part of or

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supporting forces hostile to the United States or coalition partners' in Afghanistan and who 'engaged in an armed conflict against the United States' there." 124 S. Ct. 2633, 2639 (quoting Brief for the Respondents) (emphasis added). The Court agreed with the government that the AUMF authorizes the Executive to detain individuals falling within that limited definition, *id.*, with the plurality explaining that "[b]ecause detention to prevent a combatant's return to the battlefield is a fundamental incident of waging war, in permitting the use of 'necessary and appropriate force,' Congress has clearly and unmistakably authorized detention in the narrow

circumstances considered here." *Id.* at 2641. The plurality cautioned, however, "that indefinite detention for the purpose of interrogation is not authorized" by the AUMF, and added that a congressional grant of authority to the President to use "necessary and appropriate force" might not be properly interpreted to include the authority to detain individuals for the duration of a particular conflict if that conflict does not take a form that is based on "longstanding law-of-war principles." *Id.*

The definition of "enemy combatant" contained in the Order creating the CSRT is significantly broader than the definition considered in *Hamdi*. According to the definition currently applied by the government, an "enemy combatant" "shall mean an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces." July 7, 2004 Order at 1 (emphasis added). Use of the word "includes" indicates that the government interprets the AUMF to permit the indefinite detention of individuals who never

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committed a belligerent act or who never directly supported hostilities against the U.S. or its allies. This Court explored the government's position on the matter by posing a series of hypothetical questions to counsel at the December 1, 2004 hearing on the motion to dismiss. In response to the hypotheticals, counsel for the respondents argued that the Executive has the authority to detain the following individuals until the conclusion of the war on terrorism:

"(a) little old lady in Switzerland who writes checks to what she thinks is a charity that helps orphans in Afghanistan but (what) really is a front to finance al-Qaeda activities," Transcript at

25, a person who teaches English to the son of an al Qaeda member, *id.* at 27, and a journalist who knows the location of Osama Bin Laden but refuses to disclose it to protect her source, *id.* at 29.

The Court can unequivocally report that no factual returns submitted by the government in this litigation reveals the detention of a Swiss philanthropist, an English teacher, or a journalist. The Court can also acknowledge the existence of specific factual returns containing evidence indicating that certain detainees fit the narrower definition of "enemy combatant" approved by the Supreme Court in *Hamdi*. The petitioners have argued in opposition to the respondents' motion to dismiss, however, that at least with respect to some detainees, the expansive definition of "enemy combatant" currently in use in the CSRT proceedings violates long standing principles of due process by permitting the detention of individuals based solely on their membership in anti-American organizations rather than on actual activities supporting the use of violence or harm against the United States. Al Odah Petitioners' Reply to the Government's "Response to Petitions for Writ of Habeas Corpus and Motion to Dismiss" at 25-26 (citing *Scales v. United*

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Singer, 367 U.S. 203, 224-225 (1961); Carlson v. Landon, 342 U.S. 524, 541 (1952)).

Whether the detention of each individual petitioner is authorized by the AUMP and satisfies the mandates of due process must ultimately be determined on a detainee by detainee basis. At this stage of the litigation, however, sufficient allegations have been made by at least some of the petitioners and certain evidence exists in some CSRT factual returns to warrant the denial of the respondents' motion to dismiss on the ground that the respondents have employed an overly broad definition of "enemy combatant." Examples of cases where this issue is readily apparent are Kurnaz v. Bush, 04-CV-1135 (ESH), and El-Banna v. Bush, 04-CV-1144 (RWR).

As already discussed above, the unclassified evidence upon which the CSRT relied in determining Murat Kurnaz's "enemy combatant" status consisted of findings that he was "associated" with an Islamic missionary group named Jama'at-Al-Tabliq, that he was an "associate" of and planned to travel to Pakistan with an individual who later engaged in a suicide bombing, and that he accepted free food, lodging, and schooling in Pakistan from an organization known to support terrorist acts. Kurnaz Factual Return, Enclosure (1) at 1. While these facts may be probative and could be used to bolster the credibility of other evidence, if any, establishing actual activities undertaken to harm American interests, by themselves they fall short of establishing that the detainee took any action or provided any direct support for terrorist actions against the U.S. or its allies. Nowhere does any unclassified evidence reveal that the detainee even had knowledge of his associate's planned suicide bombing, let alone establish that the detainee assisted in the bombing in any way. In fact, the detainee expressly denied knowledge of a bombing plan when he was informed of it by the American authorities. *Id.*

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Enclosure (3) at 1. In addition, although the detainee admits to briefly studying with JT, there is no unclassified evidence to establish that his studies involved anything other than the Koran.³⁵

The dearth of evidence establishing actual activities undertaken by the detainee in furtherance of terrorism is illustrated by classified Exhibit R23 attached to the factual return. In that document, dated March 15, 2002, an interrogator


Id., Exhibit R23 at 2. The interrogator then wrote that


Id. German authorities, however, subsequently informed the U.S. that the detainee had no connection to al-Qaeda. Id., Exhibit R17. Absent other evidence,³⁶ it

³⁵ In fact, classified evidence reviewed by the CSRT indicates that the petitioner was actually denied admission to the JT school in Lahore, Pakistan. Id., Exhibit R18 at 1.

³⁶ It is true that Exhibit R19 to the Kumaz Factual Return does assert that the detainee  and the respondents urge this Court to uphold the detention of any petitioner, including Mr. Kumaz, as long as "some evidence" exists to support a conclusion that he actively participated in terrorist activities. Motion to Dismiss at 47-51. Hamdi, however, holds that the "some evidence" standard cannot be applied where the detainee was not given an opportunity to challenge the evidence in an administrative proceeding, 124 S. Ct. at 2651, and Mr. Kumaz was never provided access to Exhibit R19. Additionally, in resolving a motion to dismiss, the Court must accept as true the petitioner's allegations and must interpret the evidence in the record in the light most favorable to the nonmoving party. Because Exhibit R19 fails to provide any significant details to support its conclusory allegations, does not reveal the sources for its information, and is contradicted by other evidence in the record, the Court cannot at this stage of the litigation give the document the weight the CSRT afforded it.

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would appear that the government is indefinitely holding the detainee – possibly for life – solely because of his contacts with individuals or organizations tied to terrorism and not because of any terrorist activities that the detainee aided, abetted, or undertook himself. Such detention, even if found to be authorized by the AUMF, would be a violation of due process. Accordingly, the detainee is entitled to fully litigate the factual basis for his detention in these habeas proceedings and to have a fair opportunity to prove that he is being detained on improper grounds.

Similar defects might also exist with respect to the detention of Jamil El-Banna, a petitioner in El-Banna v. Bush, 04-CV-1144 (RWR). At the CSRT proceedings, the tribunal concluded that the detainee was an "enemy combatant" on the ground that he was "part of or supporting Al Qaida forces." Respondents' In Camera Factual Return to Petition for Writ of Habeas Corpus by Petitioner Jamil El-Banna (hereinafter "El-Banna Factual Return"), filed December 17, 2004, Enclosure (1) at 5. The CSRT reached this conclusion notwithstanding the Personal Representative's position that it was unsupported by the record before the tribunal. See October 16, 2004 Memorandum of James R. Crisfield Jr., attached to the El-Banna Factual Return. During the CSRT proceedings, the tribunal rejected two grounds cited by the Recorder in support of the detainee's "enemy combatant" status. First, although the detainee was alleged to have been indicted by a Spanish National High Court Judge for membership in a terrorist organization, id., Enclosure (3) at 2, the tribunal did not find any evidence relating to that indictment "helpful in establishing the detainee's association with Al Qaida." Id., Enclosure (1) at 4. See also id., Enclosure (2) at 3 ("Since the Tribunal had no evidence the detainee deployed to Afghanistan, the Tribunal did not consider the Spanish extradition request persuasive.")

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Second, although the detainee was alleged to have attempted "to board an airplane with equipment that resembled a homemade electronic device," *id.*, Enclosure (3) at 3, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED] Even accepting these factual conclusions as true, a serious legal question exists as to whether such activities would be sufficient to detain the petitioner at Guantanamo Bay indefinitely without formally charging him with a crime. *See Hamdi*, 124 S. Ct. at 2640 ("The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again.") and at 2642 ("If the practical circumstances of a given conflict are entirely unlike those of the conflicts that informed the development of the law of war, that understanding [that the AUMF allows indefinite detention] may unravel."). In any event,

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however, final resolution of that question must be left for another day because at this stage of the proceedings, the Court must interpret the facts in the light most favorable to the party opposing a motion to dismiss. Under that approach, evidence in the record can be fairly interpreted to conclude that the petitioner is being detained indefinitely not because [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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It may well turn out that after the detainee is given a fair opportunity to challenge his detention in a habeas proceeding, the legality of his detention as an "enemy combatant" will be upheld and he will continue to be held at Guantanamo Bay until the end of the war on terrorism or until the government determines he no longer poses a threat to U.S. security. It is also possible, however, that once given a fair opportunity to litigate his case, the detainee will establish that he is being indefinitely detained not because of anything he has done and not to prevent his return to any "battlefield," metaphorical or otherwise, but simply because of the information he possesses. Hamdi holds that such detention is not permissible, 124 S. Ct. at 2641, and the respondents' motion to dismiss must therefore be denied.

This concludes the Court's analysis of the due process issues arising from the respondents' motion to dismiss. Nothing written above should be interpreted to require the immediate release of any detainee, nor should the conclusions reached be considered to have fully resolved whether or not sufficient evidence exists to support the continued detention of any petitioner. The respondents' motion to dismiss asserted that no evidence exists and that the petitioners could make no factual allegations which, if taken as true, would permit the litigation of these habeas cases to proceed further. For the reasons stated above, the Court has concluded otherwise. The Court, however, has not addressed all arguments made by the petitioners in opposition to the respondents' motion to dismiss, and it may be that the CSRT procedures violate

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due process requirements for additional reasons not addressed in this Memorandum Opinion. In any event, and as Hamdi acknowledged, in the absence of military tribunal proceedings that comport with constitutional due process requirements, it is the obligation of the court receiving a habeas petition to provide the petitioner with a fair opportunity to challenge the government's factual basis for his detention. Id. at 2651-52. Accordingly, the accompanying Order requests input from counsel regarding how these cases should proceed in light of this Memorandum Opinion.

D. CLAIMS BASED ON THE GENEVA CONVENTIONS

The petitioners in all of the above captioned cases except Al Odah v. United States, 02-CV-0828, have also asserted claims based on the Geneva Conventions, which regulate the treatment of certain prisoners of war and civilians. The respondents contend that all Geneva Convention claims filed by the petitioners must be dismissed because Congress has not enacted any separate legislation specifically granting individuals the right to file private lawsuits based on the Conventions and because the Conventions are not "self-executing," meaning they do not by themselves create such a private right of action. Motion to Dismiss at 68-71. In the alternative, the respondents argue that even if the Geneva Conventions are self-executing, they do not apply to members of al Qaeda because that international terrorist organization is not a state party to the Conventions. Id. at 70 n.80. Finally, although respondents concede that Afghanistan is a state party to the Conventions and admit that the Geneva Conventions apply to Taliban detainees, they emphasize that President Bush has determined that Taliban fighters are not entitled to prisoner of

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war status under the Third Geneva Convention and contend that this decision is the final word on the matter. *Id.*

The Constitution provides that "all Treaties made . . . under the Authority of the United States, shall be the supreme Law of the Land." U.S. Const. art. VI, cl. 2. Unless Congress enacts authorizing legislation, however, an individual may seek to enforce a treaty provision only if the treaty expressly or impliedly grants such a right. See Head Money Cases, 112 U.S. 580, 598-99 (1884). If a treaty does not create an express right of private enforcement, an implied right might be found by examining the treaty as a whole. See Diers v. Richardson, 555 F.2d 848, 851 (D.C. Cir. 1976).

The Third and Fourth Geneva Conventions do not expressly grant private rights of action, and whether they impliedly create such rights has never been definitively resolved by the D.C. Circuit.²⁷ The Court of Appeals is currently reviewing the matter in the appeal of Hamdan v. Rumsfeld, 344 F. Supp.2d 152 (D.D.C. 2004), but until that court issues a definitive ruling,²⁸ this Court must make its own determination. After reviewing Hamdan and the briefs filed by

²⁷ The closest the Court of Appeals came to ruling on the issue was the case of Tel-Oren v. Libyan Arab Republic, 726 F.2d 774 (D.C. Cir. 1984), a suit brought by victims of a brutal attack in Israel by the Palestinian Liberation Organization. The main issue on appeal was whether the District Court correctly ruled that there was no subject-matter jurisdiction to hear the case, and although the three-judge panel ultimately affirmed the lower court's decision, each judge relied on a separate rationale and no judge joined any other judge's opinion. In reaching his own conclusion, Judge Robert Bork determined that the Third Geneva Convention was not self-executing. *Id.* at 808-09. The other two judges on the panel did not address the issue, however, and the matter remains unsettled as of this date.

²⁸ Oral argument on the respondents' appeal in Hamdan is currently scheduled for March 8, 2005.

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petitioners and respondents in the instant cases, the Court concludes that the Conventions are self-executing and adopts the following reasoning provided by Judge Robertson:

Because the Geneva Conventions were written to protect individuals, because the Executive Branch of our government has implemented the Geneva Conventions for fifty years without questioning the absence of implementing legislation, because Congress clearly understood that the Conventions did not require implementing legislation except in a few specific areas, and because nothing in the Third Geneva Convention itself manifests the contracting parties' intention that it not become effective as domestic law without the enactment of implementing legislation, I conclude that, insofar as it is pertinent here, the Third Geneva Convention is a self-executing treaty.

Id. at 165.

Although the Court rejects the primary basis argued by the respondents for dismissal of claims based on the Geneva Conventions, it does accept one of the alternative grounds put forth in their motion, namely that the Geneva Conventions do not apply to al Qaeda. Article 2 of the Third and Fourth Geneva Conventions provides, "In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them." Clearly, al Qaeda is not a "High Contracting Party" to the Conventions, and thus individuals detained on the ground that they are members of that terrorist organization are not entitled to the protections of the treaties.

This does not end the analysis for purposes of resolving the respondents' motion to dismiss, however, because some of the petitioners in the above-captioned cases are being detained either solely because they were Taliban fighters or because they were associated with both the Taliban and al Qaeda. Significantly, the respondents concede that the Geneva

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Conventions apply to the Taliban detainees in light of the fact that Afghanistan is a High Contracting Party to the Conventions. Motion to Dismiss at 70-71 n.80 (citing White House Fact Sheet (Feb. 7, 2002), available at <http://www.whitehouse.gov/news/releases/2002/02/20020207-13.html>). They argue in their motion to dismiss, however, that notwithstanding the application of the Third Geneva Convention to Taliban detainees, the treaty does not protect Taliban detainees because the President has declared that no Taliban fighter is a "prisoner of war" as defined by the Convention. Id. The respondents' argument in this regard must be rejected, however, for the Third Geneva Convention does not permit the determination of prisoner of war status in such a conclusory fashion.

Article 4 of the Third Geneva Convention defines who is considered a "prisoner of war" under the treaty. Paragraph (1) provides that the term "prisoners of war" includes "[m]embers of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces." As provided in Paragraph (2), the definition of "prisoners of war" also includes "[m]embers of other militias and members of other volunteer corps, including those of organized resistance movements," but only if they fulfill the following conditions: "(a) that of being commanded by a person responsible for his subordinates; (b) that of having a fixed distinctive sign recognizable at a distance; (c) that of carrying arms openly; (d) that of conducting their operations in accordance with the laws and customs of war." If there is any doubt as to whether individuals satisfy the Article 4 prerequisites, Article 5 entitles them to be treated as prisoners of war "until such time as their status has been determined by a competent tribunal." Army Regulation 190-8 created the rules for the "competent tribunal" referenced in

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Article 5 of the Third Geneva Convention, and the CSRT was established in accordance with that provision. See Army Regulation 190-8 § 1-1.b, Motion to Dismiss at 32.

Nothing in the Convention itself or in Army Regulation 190-8 authorizes the President of the United States to rule by fiat that an entire group of fighters covered by the Third Geneva Convention falls outside of the Article 4 definitions of "prisoners of war." To the contrary, and as Judge Robertson ruled in Hamdan, the President's broad characterization of how the Taliban generally fought the war in Afghanistan cannot substitute for an Article 5 tribunal's determination on an individualized basis of whether a particular fighter complied with the laws of war or otherwise falls within an exception denying him prisoner of war status. 344 F. Supp.2d at 161-62. Clearly, had an appropriate determination been properly made by an Article 5 tribunal that a petitioner was not a prisoner of war, that petitioner's claims based on the Third Geneva Convention could not survive the respondents' motion to dismiss. But although numerous petitioners in the above-captioned cases were found by the CSRT to have been Taliban fighters, nowhere do the CSRT records for many of those petitioners reveal specific findings that they committed some particular act or failed to satisfy some defined prerequisite entitling the respondents to deprive them of prisoner of war status.³⁹ Accordingly, the Court denies that

³⁹ See, e.g.,



only examples of petitioners for whom the CSRT did not make a full Article 5 type inquiry

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portion of the respondents' motion to dismiss addressing the Geneva Convention claims of those petitioners who were found to be Taliban fighters but who were not specifically determined to be excluded from prisoner of war status by a competent Article 5 tribunal.

E. DISMISSAL OF REMAINING CLAIMS

Upon review of the remaining causes of action asserted by the various petitioners in these cases, the Court concludes that the respondents are entitled to dismissal of the claims not addressed in the preceding sections of this Memorandum Opinion. The Court agrees with the respondents that claims based on the Sixth, Eighth, and Fourteenth Amendments to the Constitution are not sustainable because the Sixth Amendment applies only to criminal proceedings, because the Eighth Amendment applies only after an individual is convicted of a crime, and because the Fourteenth Amendment applies only to the states and not to the federal government. In addition, any claims based on the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, must be dismissed because the habeas jurisdiction of this court has not been suspended. Except as discussed in part IID above regarding the Geneva Conventions, the Court agrees that the remaining treaty-based claims and the claim based on Army Regulation 190-8 asserted by the petitioners should be dismissed primarily for the reasons stated by the respondents in their motion to dismiss. See Motion to Dismiss at 71-72. The Court also agrees with the reasoning of

regarding prisoner of war status. There may be additional petitioners who fought for the Taliban and who were not given individualized determinations as to their prisoner of war status. Absence from this list should not be interpreted to imply that a petitioner can no longer assert his Geneva Convention claims in this habeas litigation.

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Judge Kollar-Kotelly in her original Rasul decision and with Judge Randolph's concurrence in the Al Odah appeal that the doctrine of sovereign immunity bars claims based on the Alien Tort Claims Act and that the general waiver of sovereign immunity contained in the Administrative Procedure Act is inapplicable because of the "military authority" exception in 5 U.S.C.

§ 701(b)(1)(G). Al Odah, 321 F.3d at 1149-50 (Randolph, J. concurring); Rasul, 215 F. Supp.2d at 64 n.11. Finally, having found that all detainees possess Fifth Amendment due process rights and that some detainees possibly possess rights under the Geneva Conventions, it is unnecessary to look to customary international law to resolve the petitioners' claims. See The Paquete Habana, 175 U.S. 677, 699 (1900) ("where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations").

III. CONCLUSION

For the reasons provided above, the Court holds that the petitioners have stated valid claims under the Fifth Amendment and that the CSRT procedures are unconstitutional for failing to comport with the requirements of due process. Additionally, the Court holds that Taliban fighters who have not been specifically determined to be excluded from prisoner of war status by a competent Article 5 tribunal have also stated valid claims under the Third Geneva Convention. Finally, the Court concludes that the remaining claims of the petitioners must be denied. Accordingly, this Memorandum Opinion is accompanied by a separate Order denying in part and granting in part the respondents' Motion to Dismiss or for Judgment as a Matter of Law.

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This Judge began her participation as the coordinator of these cases on August 17, 2004, and her involvement will soon be ending. These cases have always remained before the original Judges assigned to them and only particular issues or motions were referred to this Judge for resolution. Therefore, there will be no need to transfer the cases back to those Judges. In the interest of the effective management of this litigation, however, the accompanying Order requests briefing from counsel on an expedited basis regarding their views as to how these cases should proceed in light of this Memorandum Opinion and this Judge's imminent departure.

January 31, 2005

Joyce Hens Green
JOYCE HENS GREEN
United States District Judge

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Re: Supplemental Submission of Detainee Murat Kurnaz
to the Administrative Review Board

We respectfully offer United States District Judge Joyce Hens Green's Memorandum Opinion, issued January 31, 2005 as a supplement to Mr. Kurnaz's submission in this Administrative Review Board ("ARB") proceeding previously forwarded to you on February 1, 2005. Pursuant to your notice on December 28, 2004, we ask that you present a copy of this letter and the attached opinion to members of the ARB reviewing Mr. Murat's detention.

As you are likely aware, Judge Green ruled that the Guantanamo Bay detainees have stated valid claims under the Fifth Amendment and the Third Geneva Convention and that the procedures utilized by United States to determine whether a detainee is an "enemy combatant" deprive the detainees of due process of law. We wish specifically to draw your attention to Judge Green's decision to devote a significant portion of her opinion to a discussion of Mr. Kurnaz's case. We of course understand that Judge Green's decision and even her reasoning is in no way legally binding on the Board. Nevertheless, we think it significant that an esteemed independent judgment such as Judge Green's,¹ upon review of the unclassified and classified

¹ Judge Green, before her retirement, was a highly respected member of the judiciary, proven more so by the request from the D.C. District Court that she come out of retirement to handle consolidated issues in the Guantanamo habeas cases. No stranger to sensitive and complex issues related to our nation's security, she has served as Chief Judge of the United States Foreign Intelligence Surveillance Court and has been awarded the "Intelligence Under Law" Award from the National Security Agency (NSA) and the "Agency Seal Medallion" from the Central Intelligence Agency (CIA).

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bases for his detention, came to much the same conclusion that we had respectfully urged upon you in our February 1, 2005 submission: that the evidence against Mr. Kurnaz does not provide a strong basis to conclude he is an enemy combatant. Therefore, we think her judicial opinion is relevant to your consideration of whether Mr. Kurnaz should continue to be regarded as "dangerous to the United States, its interests or its allies."

Focusing on Mr. Kurnaz's case, Judge Green first concludes that the unclassified evidence supporting his detention provides an extremely attenuated – and constitutionally insufficient – basis for a conclusion that Mr. Kurnaz supports or is associated with terrorism. See Memorandum Opinion at 62 ("the unclassified evidence upon which the CSRT relied upon in determining Murat Kurnaz's "enemy combatant" status consisted of findings that he was "associated" with an Islamic missionary group named Jama'at-Al-Tabliq, that he was an "associate of and planned to travel to Pakistan with an individual who later engaged in a suicide bombing, and that he accepted free food, lodging and schooling in Pakistan from an organization known to support terrorist acts.") (citing Kurnaz Factual Return, Enclosure (I) at 1). Specifically, she states:

Nowhere does any unclassified evidence reveal that the detainee even had knowledge of his associate's planned suicide bombing,² let alone establish that the detainee assisted in the bombing in any way....In addition, although the detainee admits to briefly studying with JT, there is no unclassified evidence to establish that his studies involved anything other than the Koran.³

Memorandum Opinion at 62-63.

Regarding the classified basis for his detention, which she reviews in detail, Judge Green finds it similarly thin. Consistent with our February 1 submission to the ARB, Judge Green points out the numerous exculpatory statements of U.S. officials which demonstrate their belief that he has no connections to the Taliban, or Al Qaeda. See Memorandum Opinion at 50-51 ("the detainee may actually have no Al-Qaida or Taliban association") (citing Exhibit R-16 at 1-2); ("CITF has no definite link/evidence of detainee having an association with al-Qaida or making any specific threat toward the U.S.' and that the '[t]he Germans confirmed that this detainee has no connection to an al-Qaida cell in Germany'" (citing Exhibit R-17) (emphasis added); ("There is no indication that Kurnaz was in direct contact with a Taliban recruiter," ... "CITF is not aware of evidence that Kurnaz was or is a member of al-Qaida" and that "CITF is not aware of any evidence that Kurnaz has knowingly harbored any individual who was a member of al-Qaida or who has engaged in, aided or abetted, or conspired to commit acts of terrorism against the U.S., its citizens or interests") (citing Exhibit R-18) (emphasis added).

² Judge Green was not aware of information we have provided to the ARB (see Exhibits 7 and 8), that Mr. Bitgin is alive, has never been under any suspicion by German authorities regarding a suicide bombing, and has been cleared by German authorities of suspicions related to terrorism.

³ As we described in detail in pages 11-16 of our letter to the ARB and accompanying expert letters, Jama'at al Tabliq is an enormous group that is both avowedly peaceful and anti-political and could not, for reasons related to structure, ideology and practice, support or be affiliated with terrorist groups in any significant way.

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She thus discounts the conclusion in Exhibit R-19 of the return because it "fails to provide significant details to support its conclusory allegations, does not reveal the sources for its information, and is contradicted by other evidence in the record." Memorandum Opinion at 63 n. 36.

Again, we understand that Judge Green's opinion has no binding effect on this Board's determinations and that it must undergo review by the Court of Appeals. Nevertheless, we think it significant that an independent and experienced jurist isolated Mr. Kurnaz's detention as one that appears particularly unjust and we will of course attempt to reinforce this appearance by focusing the Court of Appeals' attention on the same issues Judge Green raised. We thus respectfully submit that the Board give Judge Green's opinion due consideration in evaluating whether Mr. Kurnaz is still dangerous enough that he must be detained.

Respectfully submitted,


Baher Azmy

Bremen, den 24. 01. 05

Sehr verehrte Damen,
sehr geehrte Herren,

ich, die Mutter, die ihren Sohn sicher am besten
kennt, schreibe nicht nur in meinem Namen, sondern
auch im Namen der ganzen Verwandten und Bekannten,
versichere, daß mein Sohn Murat ein Mensch ist,
der alle Menschen und auch Tiere liebt und
keinem Lebewesen etwas an derbe tun kann. Er
hat durch seine Religion, die Murat einzig und
allein für sich ausgelebt hat eine besondere
innere Ruhe gefunden. Ich versichere auch, daß
er niemals ein militärischer Mensch gewesen ist,
oder Vorurteile gegen Menschen gehabt hat,
die nicht nach den Regeln des Islams gehandelt
haben. Er hat immer nur an das Gute im
Menschen geglaubt.

Wir sind seit 1940 in Deutschland und die
ganze Familie hat sich nie etwas zu schulden
kommen lassen. Sein Vater arbeitet schon
seit 30 Jahren bei der gleichen Firma, seine
Schwester ist glücklich verheiratet und hat
2 Kinder, sein Bruder besucht die 10. Klasse
des Gymnasiums der andere Bruder in die
3. Klasse der Grundschule und ich bin eine
ganz normale Hausfrau. Wir bekommen
alle langsam aber schon Depressionen, besonders
ich. Wir möchten alle wieder unseren lieben
Jungen zwischen uns sehen und haben.. Bitte
glauben Sie ihm und uns, daß Mirat sicher
unschuldig ist. Glauben Sie wenigstens einer
Mutter. Haben Sie bitte Verständnis.
Ich appelliere an alle zuständigen Damen und
Herren an ihre Menschlichkeit.

In voller Haftung und Hochachtungsvoll

Sworn Affidavit

I, [REDACTED], born on 12.20.1968 in Artvid, Turkey, declare under oath, with awareness of the punishability of false statements:

I have known the Kurnaz family for over 18 years. I ran a travel agency in Bremen. Murat Kurnaz was in my office several times. The last time was in summer 2001. He bought airline tickets for his vacation in Turkey. He told me about his upcoming wedding in Turkey and showed me pictures of his future wife. After his return I met him again. He informed me that he had applied for an entry visa for his wife. Murat made a totally relaxed, satisfied and happy impression.

I know that he had turned to Islam. We also talked about the terror attack of 9.11.2001. Murat condemned these acts by the terrorists, he agreed with me that these acts could not be justified by Islam in any way.

I have known the Kurnaz family as a peaceful and tolerant family. The father of the family, Metin Kurnaz, has worked in an automobile factory for 30 years. The four children of Metin and Rabiye grew up in a happy home. The family was open and friendly towards other people; different religions or attitudes towards life made no difference.

As Murat Kurnaz's parents told me, they are of course willing to take Murat Kurnaz into their home after his return from imprisonment. Murat Kurnaz's parents and siblings are longing for him to return home.

I have told the Bremen state prosecutor that Murat Kurnaz, in my experience, did not have fundamentalist tendencies, he condemned the terrorist attack on September 2001, and he looked forward to his wife coming to Bremen at the end of 2001.

Bremen, 1.25.2005

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I hereby swear, with awareness of the punishability of false statements,

That Murat Kurnaz intended to attend a Koran school to get to know his religion better. I knew nothing of extremist-fundamentalist views. I knew Murat for years, we did a lot of things together. He got along with everyone very well. No one can say that he is a terrorist. I like him as much as all his other friends like him, whether Turks, Germans etc. That's why we want to see Murat with us again soon. We have all missed him very much. Please set Murat free!

Name, address, birthdate, date, signature

[REDACTED]

[REDACTED]

[REDACTED]

born 20 Dec. 1980 om Bremen

Bremen 01.23.2005

[signature]

"UNCLASSIFIED"

Hiermit versichere ich in Kenntnis der Strafbarkeit falscher Angaben ein Eldes statt:

Das Murat Kurmaz die Absicht hatte eine Koranschule zu besuchen um seine Religion besser kennen zu lernen. Von Extremistisch-Fundamentalistischen Absichten war mir nichts bekannt. Ich kannte Murat seit Jahren, wir haben viel miteinander unternommen. Er konnte sich mit allen sehr gut verstehen. Keiner kann sagen das Er ein Terrorist ist. Ich mag ihn genauso viel wie alle anderen seiner Freunde ihn mögen ob Türke Deutscher usw. Deswegen wünschen wir uns, Murat bald wieder unter uns zu sehen. Wir haben ihn alle sehr vermisst. Bitte lassen Sie Murat frei.

Name, Adresse, Geburtsdatum, Datum, Unterschrift

[REDACTED]
[REDACTED]
[REDACTED]

20. Dez. 1980 geb in Bremen

Bremen 23.01.2005

[REDACTED]

Bates Number 700302
was not used.

700302

Bremen, 01/24/05

[REDACTED]

[REDACTED]

[REDACTED]

Ladies and gentlemen,

I, the mother who certainly knows her own son best, am writing not only in my name, but in the name of all the relatives and friends, affirm that my son Murat is a person who loves all people and also animals, and cannot hurt any living thing. Through his religion, which Murat lived only for himself, he found a special inner peace. I also affirm that he was never a militant person or was prejudiced against people who did not act according to the rules of Islam. He always believed only in the good in people.

We have been in Germany since 1970 and the whole family has never done anything wrong. His father has worked at the same firm for 30 years, his sister is happily married and has 2 children, his brother is in 10th grade in gymnasium, his other brother is in the 3rd grade of primary school, and I am a perfectly normal housewife. We are all slowly becoming depressed, especially me. We all want to see and have our dear boy with us again. Please believe him and us, that Murat is certainly innocent. At least believe a mother. Please have sympathy. I appeal to all ladies and gentlemen in charge, to your humanity.

In great hope and respectfully,

[REDACTED]

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Eidensmäßige Versicherung

Hiermit erkläre ich, [REDACTED], geb. am 20.12.1968 in Artvin/Türkei in Kenntnis der Strafbarkeit falscher Angaben im Eides statt:

Ich kenne Familie Kurnaz schon seit über 18 Jahren. Ich habe in Bremen ein Reisebüro betrieben. Murat Kurnaz war mehrere Male in meinem Geschäft. Zuletzt im Sommer 2001. Er kaufte Flugtickets für seinen Türkeiurlaub. Er erzählte mir von der bevorstehenden Heirat in der Türkei und zeigte mir Bilder seiner zukünftigen Frau. Nach seiner Rückkehr habe ich ihn wieder getroffen. Er teilte mir mit, dass er für seine Frau ein Elounda-Visum beantragt hatte. Murat machte einen total lockeren, zufriedenen und glücklichen Eindruck.

Mir ist bekannt, dass er sich dem Islam zuwandte. Wir haben auch über den Terroranschlag vom 11.09.2001 gesprochen. Murat verurteilte diese Aktion der Terroristen, er war mit mir einer Meinung, dass diese Aktion durch den Islam in keiner Weise zu rechtfertigen sei.

Ich habe die Familie Kurnaz als friedliche und tolerante Familie erlebt. Der Vater der Familie, Mevio Kurnaz, arbeitet seit 30 Jahren in einer Automobilfabrik. Die vier Kinder der Motin und der Rabiye sind in einem glücklichen Zuhause aufgewachsen. Die Familie war anderen Menschen gegenüber offen und freundlich, unterschiedliche Religionen oder Lebenshaltungen spielten keine Rolle.

Wie die Eltern von Murat Kurnaz mir mitteilten, sind sie selbstverständlich bereit, Murat Kurnaz nach seiner Rückkehr aus der Gefangenschaft in ihrem Hause wieder aufzunehmen. Die Eltern und die Geschwister von Murat Kurnaz warten sehnsüchtig auf seine Heimkehr.

Ich habe auch der Staatsanwaltschaft in Bremen mitgeteilt, dass Murat Kurnaz nach meinen Erfahrungen nicht fundamentalistisch eingestellt war, er den Terroranschlag vom September 2001 verurteilte und er sich darauf freute, dass seine Ehefrau Ende des Jahres 2001 nach Bremen kommen sollte.

Bremen, 25.01.2005

[REDACTED]
[REDACTED]
[REDACTED]

Fax: 2 pages

[REDACTED]

I, [REDACTED] born 07.18.1940, hereby declare under oath, in awareness of the punishability of false statements:

Statement:

I, [REDACTED] and my family have known the Karnaz family for over 30 years. During this time our families were in close contact and continued our good relations with the birth of the children and as they grew up. The children are like our own grandchildren, with whom we often spent our free time and celebrated their birthdays together. We knew the first child in the family, Murat K., the best. He was a very warmhearted, affectionate and nice boy. We very much value his special nature and his good character. As he grew up, he proved to be a respectful, polite, decent, family-oriented and domestic young man. He took great joy in life and spent most of his time at home and walking and playing with the dog.

According to our opinions and observations, Murat K. lost nothing of his good character and decent behavior in his childhood, youth and young adult years.

To this day, Murat K. is, in our eyes, a fair, helpful, social and just person on whom one can depend.

I myself in particular, and my family as well, miss him very much and hope to have him with us again soon, sound and healthy.

With these good wishes, I will end my words, which come from the depths of my soul.

Close family friend

[REDACTED]

Fax: 2 pages

"UNCLASSIFIED"

Fol: 2 Seiten

Hiermit erkläre ich, Ahmet Tek
geb. 18.07.1940 in Kenntnis der
Strafbarkeit falscher Angaben ein
Eides stellt.

Stellungnahme:

Ich, [REDACTED] und meine Familie
kennen die Familie Kurnaz über 30 Jahre.
Während dieser Zeiten hatten wir ein sehr
engen familiären Kontakt zueinander und pflegten
unsere guten Beziehungen auch mit den Geburten der
Kinder und deren Aufwuchs fort. Die Kinder sind
für uns wie unsere eigenen Enkelkinder, mit denen
wir öfters unsere freie Zeiten verbrachten und
deren Geburts-tage zusammen feierten. Besonders gut
kannten wir das erste Kind der Familie, den Murat K.
Er war ein sehr warmherziger, lieber und netter Junge.
Seine besondere Art und seinen guten Charakter schätzten
wir sehr. Mit zunehmendem Alter erwies er sich als eine
respektvollen, höflichen, anständigen, familiengebundenen und
häuslichen Heranwachsenden. Er fand viel Freude am
Leben und verbrachte seine meiste Zeit zu Hause
und beim Spazierengehen und Spielen des Hundes.

Nach unseren Auffassungen und Betrachtungen
hat sich Murat K. sowohl in der Kindheit,
Jugend als auch im Heranwachsendenalter
von seinem gutem Charakter und anständigen
Verhaltens nichts aufgegeben.

Bis heute ist Murat K. in unseren Augen
ein fairer, hilfsbereiter, sozialer und gerechter
Mensch, auf den man sich verlassen kann.

Ich ganz besonders und auch meine Familie
vermissen ihn sehr und hoffen ihn bald
unversehrt und gesund wieder bei uns zu haben.
Mit diesen guten Wünschen beende ich meine
aus der tiefsten Seele kommenden Worte.

Enger Familienfreund



-2-

Fat: 2 seiten

I hereby declare under oath, in awareness of the punishability of false statements:

That I have known Mural Kurnaz since childhood. I can only say good things about him until I heard that he was arrested and is in America. He was always a well-behaved, friendly, even somewhat shy child and young person I never heard or saw anything violent from him I also don't believe that he went anywhere to fight a war in the recent past he was a young man who wanted to know more about his religion and that is all he wanted I hope that he is released soon and is back home.

Name, address, birthdate, date, signature

[REDACTED] born 12.26.67
[REDACTED]
[REDACTED]

01.26.05 [signature]

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Hiermit versichere ich im Kenntnis der Strafbarkeit falscher Angaben am Eides statt:

Das ich den Muzat Kurina seit kleinem kenne
Ich kann über ihn nur gutes sagen bis ich gehört
habe das er festgenommen ist und in America ist.
Er war immer ein braves freundliches sogar etwas
schüchternes Kind und Jugendliche ich habe von ihm
noch nie etwas gewalttätiges weder gehört noch
gesehen ich glaube auch nicht das er irgendwohin
gegangen ist um Kriegszufahren in der letzten zeit war
er ein Junger Mann der über sein Religion mehr wissen
wollte und das ist alles was er wollte ich hoffe das er
bald freigelassen wird und wieder zuhause ist.

Name, Adresse, Geburtsdatum, Datum, Unterschrift

[REDACTED]
[REDACTED]
[REDACTED] Geb. 26.12.67

26.01.05 [REDACTED]
[REDACTED]

I am [REDACTED] the brother of Murat Kurnaz. In this letter I would like to ask everyone in charge to set my brother free. Because I miss him and the time with him. Ever since I was born he was always there for me and did a lot together. Therefore of course I know him very well and can say I am quite certain that he could never have had anything terrorist in mind. I never even saw him kill an ant.

My little brother [REDACTED] who is in third grade also misses him a lot.

We all very much wish that we'll be able to embrace him again soon.

Yours truly

[REDACTED]

Attention Attorney Docks, Bernhard

"UNCLASSIFIED"

25. 01. 05

Ich bin [REDACTED] der Bruder von
Murat Kuruz. In diesem Brief möchte
ich alle Zuständigen bitten, meinen
Bruder freizulassen. Da ich ihn
und die Zeit mit ihm vermisse.
Schon seit meiner Geburt war er
immer für mich da und haben
zusammen auch vieles unternommen,
daher kenne ich ihn natürlich auch
sehr gut und kann mit ziemlicher
Sicherheit sagen, dass er niemals
etwas Terroristisches im Kopf gehabt
haben könnte. Ich habe noch nicht
einmal gesehen das er eine
Anreise umgebracht hat.
Mein kleiner Bruder [REDACTED] der in
die dritte Klasse geht, vermisst ihn
auch sehr.
Wir alle wünschen was sehr, ihn
bald wieder in unsere Arme
schließen zu können.

Mit freundlichen Grüßen

[REDACTED]
[REDACTED]
Döcker, Bernhard

Affidavit

Informed of the significance of an affidavit and the criminal nature of inaccurate information in such a declaration, I,

[REDACTED] born on 23 July 1976, married, living at 28309 Bremen, Hemeefinger Hoernr.7

declare the following under oath on the submission in the case against Murat Kurnaz, currently in Guantanamo in Cuba:

1. In autumn 2001 I was a friend of Murat Kurnaz, who also lived in Hemeefingen at the time. We wanted to fly to Pakistan together on 3 October 2001 and spend several weeks there to study Islam more intensively. However, I was detained at the airport in Frankfurt because of an unpaid fine for negligent assault and had to remain in jail in Germany until my relatives paid the remaining fine for me. I did not travel later to Pakistan or Afghanistan. I have only been abroad once since October 2001, in Turkey recently for 15 days in September 2004 to visit my relatives.

I have had no personal contact with Murat Kurnaz since 3 October 2001. However, he did call me at home once, shortly after 3 October 2001, and spoke with my wife. He asked where I was.

2. I have not participated in the preparation or carrying out of Islamic suicide attacks, either before or after 3 October 2001. Nor do I have any contact to people who plan or carry out such things.

3. According to press reports in the Wall Street Journal of 21 October 2004, I have been connected by US authorities with an "Elalananatus suicide bomber"; it is even suggested that I am this "Elalananatus suicide bomber."

To this I can say only: I heard the term "Elalananatus" for the first time on 22 October 2004. It means absolutely nothing to me. Therefore I also know nothing about this unknown person.

4. I was the subject of an investigation starting on 3 October 2001 on suspicion of forming a criminal organization. The suspicion derived from the planned trip to Pakistan. The investigation was carried out by the state prosecutor in Bremen. This investigation was closed in October 2002.

Bremen, 4 November 2004

[signature]
[REDACTED]

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Number 312 my documents role for 2004

The notary asked about prior involvement [??? Vorbefassung? Not sure of meaning] under section 3(1)(7), Federal Certification Law. This was answered in the negative by the subject.

I, the undersigned notary [redacted], located in Bremen, hereby certify the signature, made before me with his own hand, of

Mr. [redacted] born 23 July 1976, living at [redacted]

-identified by presentation of his passport of the Turkish Republic, No. 151842, issued on 14 March 2000 by the Turkish General Consulate in Hanover.

Bremen, 4 November 2004

The notary:

[signature]
[redacted]

[seal]


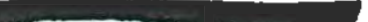
[list of costs]

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Eidesstattliche Versicherung

Befehlt über die Bedeutung einer eidesstattlichen Versicherung und die Strafbarkeit unzutreffender Angaben in einer darentigen Erklärung erkläre ich

, geboren am 23. Juli 1978, verheiratet,
wohnhaft in 

nachfolgendes an Eides statt zur Vorlage im Verfahren gegen Murat Kumaz, derzeit in Guantanamo auf Kuba:

1. Ich bin im Herbst 2001 befreundet gewesen mit Murat Kumaz, der damals auch in Hemelingen wohnte. Wir wollten am 3. Oktober 2001 gemeinsam nach Pakistan fliegen und uns dort einige Wochen aufhalten, um intensiver den Islam zu studieren. Ich wurde jedoch am Flughafen in Frankfurt wegen einer nicht bezahlten Geldstrafe wegen fahrlässiger Körperverletzung aufgehalten und musste seinerzeit in der Bundesrepublik Deutschland in Haft bleiben, bis meine Angehörigen die restliche Geldstrafe für mich bezahlten. Ich bin dann aber nicht später nach Pakistan oder Afghanistan gereist. Im Ausland war ich seit Oktober 2001 nur einmal und zwar vor kurzem im September 2004 für 15 Tage in der Türkei, um meine Familienangehörigen dort zu besuchen.

Mit Murat Kumaz hatte ich seit dem 3.10.2001 persönlich keinerlei Kontakt. Er hat allerdings kurz nach dem 3.10.2001 einmal bei mir zuhause angerufen und mit meiner Frau gesprochen. Er fragte, wo ich bleibe.


2. Ich habe mich weder vor noch nach dem 3.10.2001 an der Vorbereitung oder gar Durchführung von islamistischen Selbstmordattentaten beteiligt. Ich habe auch keinen Kontakt zu Menschen, die dazwischen planen oder durchführen.

3. Nach Presseberichten im Wall Street Journal vom 21. Oktober 2004 werde ich von US-Behörden in Verbindung gebracht mit einem "Eislanhanutus suicide bomber"; es wird sogar vermutet, ich sei dieser "Eislanhanutus suicide bomber".

Hierzu kann ich nur sagen: den Begriff "Eislanhanutus" habe ich am 22.10.2004 zum erstenmal gehört. Er sagt mir überhaupt nichts. Ich weiß daher auch nichts über diesen Unbekannten.

4. Gegen mich lief ab 3.10.2001 ein Ermittlungsverfahren wegen Verdacht auf Bildung einer kriminellen Vereinigung. Der Verdacht wurde hergeleitet aus der geplanten Reise nach Pakistan. Die Ermittlungen führte die Staatsanwaltschaft in Bremen. Dieses Verfahren wurde im Oktober 2002 eingestellt.

h. v.
Bremen, den 28.10.2004


700314

Nummer 312 meiner Urkunderrolle für 2004

Der Notar fragte nach einer Vorbesetzung im Sinne von § 3 Abs. 1 Nr. 7 BeurkG.
Es wurde von den Beteiligten verneint.

Ich, der unterzeichnete Notar [REDACTED] mit dem Amtssitz in Bremen,
beglaubige hiermit die vor mir eigenhändig vollzogene Namensunterschrift

des [REDACTED], geb. am 23. Juli 1976, [REDACTED]

- ausgetauscht durch Vorlage seines Reisepasses der türkischen Republik Nr. 151842,
ausgestellt am 14.03.2000 durch das türkische Generalkonsulat in Hannover.

B r e m e n, den 04. November 2004



Der Notar:

[REDACTED]

KOSTENBERECHNUNG GEM. § 154 KoStO

WERT: EUR 3.000,00

Gebühr §§ 141, 32, 45 i KoStO

Mehrwertsteuer gem. § 151 a KoStO 18 %

10,00 EUR
1,60 EUR
11,60 EUR

Der Notar:

[REDACTED]

~~ATTORNEY-CLIENT PRIVILEGED COMMUNICATION~~

Bremen Prosecutor
Matter No. 22- Jk 48610/01

Bremen, 25 October 2004

Attorney
[REDACTED]
[REDACTED]

Investigation of Murat Kurnaz, inter alia for forming a criminal association
Re: your fax letter of 22 October 2004 regarding your client Selcuk Bilgin

Dear Attorney [REDACTED]

I can answer the questions in the letter you addressed to me as follows:

- There is no investigation pending here against your client [REDACTED]. The procedure against your client under the above matter number was suspended for lack of sufficient cause under section 170 (2) of the criminal procedure code. I learned for the first time from a press inquiry on 22 October 2004 that your client is supposed to be an "Elalananutus suicide bomber"; in spite of myself, I can make nothing of the term "Elalananutus." My telephone queries to the criminal investigation department -state security- Bremen on the term "Elalananutus" indicated that it was unknown there as well.
- I have received no questions at all (either written or by telephone) from US authorities attempting to obtain confirmation that your client was involved in a suicide attack and/or lost his life in a suicide attack. I first learned on 22 October 2004, from the same press inquiry that I mentioned previously, that US authorities had made the claim, in the US-American "procedure" against Kurnaz, that your client is a suicide bomber and that he is supposed to belong to a group with the name of "Elalananutus."

With warm greetings,

[REDACTED]
State Prosecutor

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149 421 36196777

Stadtsanwaltschaft Bremen
Gesamtdt.-Nr.: 220 Js 486/04
(Bitte bei allen Schreiben angeben)

Bremen, [Redacted]
Tel.: [Redacted]

[Redacted]
[Redacted]

28203 Bremen

Ermittlungsverfahren gegen Mursi Karnes u.a. wegen BBÜzung einer kriminellen Verurteilung
Mittl. Ihr Fax-Brief vom 22.10.2004 bezüglich Ihres Mandanten Selvak Bägita

Sehr geehrter Herr Rechtsanwalt Baisch,

Wie in Ihren Schreiben an mich geschilderten Fragen kann ich wie folgt beantworten:

- Ein Ermittlungsverfahren gegen [Redacted] ist hier nicht abhängig. Das Verfahren unter der n.g. Geschäftsnummer ist gegen Ihren Mandanten mangels hinreichenden Tatverdachts gemäß § 170 Absatz 2 StPO eingestellt. Ich habe erstmals durch eine Presse-Anfrage am 22.10.2004 erfahren, dass Ihr Mandant ein „Ehelenennur-suicide-bomber“ sein soll, wobei ich mit dem Begriff „Ehelenennur“ bestenfalls keinen anfangen kann. Meine telefonische Anfrage bei der Kriminalpolizei - Staatschutz - Bremen zu diesem Begriff „Ehelenennur“ hat ergeben, dass dieser auch dort nicht bekannt ist.
- Mich haben keinerlei Anfragen (weder schriftlich noch telefonisch) von US-Behörden erreicht, mit denen Bezeugungen dahingehend eingeholt werden sollten, dass Ihr Mandant in einen Selbstmordanschlag verwickelt gewesen und/oder bei einem Selbstmordanschlag ums Leben gekommen sei. Ich erhielt am 22.10.2004 durch dieselbe Presse-Anfrage, die ich zuvor erwähnte, erstmals Kenntnis davon, dass US-Behörden in dem US-amerikanischen „Verfahren“ gegen Karnes die Behauptung aufgestellt haben sollen, dass Ihr Mandant Selbstmord-Anschläger gewesen sein und einer Gruppierung mit dem Namen „Ehelenennur“ angehören soll.

Mit freundlichen Grüßen

[Handwritten Signature]

Stadtsanwaltschaft

~~ATTORNEY-CLIENT PRIVILEGED COMMUNICATION~~

[REDACTED]
Attorney
Specialty Criminal Law
Specialist in labor law

[...]

[REDACTED]
[REDACTED]
[REDACTED]
Fax:
My reference:

Bremen, 22 October 2004

RE: [REDACTED]

Dear Mr. Prosecutor [REDACTED]

Pursuant to our telephone conversation, I am attaching the press articles mentioned.

Taking account of the aroused press and their questions, I would be very grateful if you could confirm briefly to me, as the defense attorney for [REDACTED], in writing that

- there is currently no investigation of [REDACTED] by the Bremen prosecutor's office.
- neither (again) for the earlier matter (supporting Al Qaeda)
- or for supposed activities as the "Elalananutus suicide bomber"
- there have been no requests from the US authorities to confirm that [REDACTED] was or had been involved in a suicide attack or that he had even been killed in such an attack.

I would be grateful for a rapid response.

With warm greetings,

[REDACTED]
Attorney

"UNCLASSIFIED"

Anbieterkürzel: Ausland 107405 - BGLF Bremen

[Redacted]

28195 Bremen

FAX: [Redacted]

Telefonzeichen 1155/04BA02

Bremen 0421 22.10.2004
1010933

Betr: [Redacted]

[Redacted]

bezugnehmend auf unser Telefongespräch übersende ich Ihnen in der Anlage die genannten Presseartikel.

Mit Rücksicht auf die aufgeregte Presse und Ihre Anfragen wäre ich sehr dankbar, wenn Sie mir als Verteidiger von [Redacted] kurz schriftlich bestätigen könnten, dass

- gegenwärtig gegen [Redacted] von der StA Bremen nicht ermittelt wird weder (erneut) wegen der früheren Beihilfe (Unterstützung El Kalda) noch wegen angeblicher Aktivitäten als "Eisenanleger-auslösbomben"
- auch keine Anfragen seitens der US-Behörden erfolgt sind zur Bestätigung dass Bilgin in einen Selbstmordanschlag verwickelt sei oder gewesen wäre, oder gar durch einen solchen Anschlag ums Leben gekommen wäre.

Für eine rasche Antwort wäre ich dankbar.

Mit freundlichen Grüßen

[Redacted]
Rechtsanwalt

Gerhard Batsch
Rechtsanwalt
Tätigkeitsbereich Strafrecht
Fachanwalt für Arbeitsrecht

in Bürogemeinschaft mit:

Stefan Hoffmann
Fachanwalt für Strafrecht
Marita Jepsch
Fachanwalt für Strafrecht
Christine Wehner
Rechtsanwältin
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Bürozeiten
Montag bis Freitag
9 - 13 und 14 - 17 Uhr
(außer für nachmittags)
25. Okt. 2004 16:26

86 ANWALTTRENBURG

Affidavit

Informed of the significance of an affidavit and the criminal nature of inaccurate information in such a declaration, I,

[REDACTED], born on 12/12/1959 in Ankara, Turkey,

declare the following under oath to be submitted in the case against Murat Kurnaz, currently in Guantanamo in Cuba:

1. I am the brother of [REDACTED], born 23/07/1976 in Bremen. My brother [REDACTED] wanted to fly to Pakistan on 03/10/2001 together with Murat Kurnaz. [REDACTED] told me and the family that he wanted to spend a few weeks there studying Islam and getting to know it better. My father and I were against this trip. We thought the trip was too dangerous at that point in time. War was in the air.

2. [REDACTED] wanted to go nevertheless. On 03/10/2001 I got a call from the Federal Border Police in Frankfurt. They told me that my brother [REDACTED] had been arrested because of an unpaid fine and that he could not fly without paying the amount. They asked me if I would pay the fine for him. After talking to my father in Turkey I called the Federal Border Police back and told them that I could not pay the fine. At the same time, I conveyed my fear that my brother could go to or wind up in a possible war in Afghanistan. This was my fear—I had no positive knowledge of this. [REDACTED] himself had only ever mentioned Pakistan as the destination of his trip. From Murat Kurnaz, too, I only knew of the destination of Pakistan. Therefore, I cannot testify that [REDACTED] and Murat wanted to go to Afghanistan and fight.

Bremen, 16 December 2004

[REDACTED]

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Number 362 my document role for 2004 .

The notary asked about prior involvement [??? Vorbefassung? Not sure of meaning] under section 3(1)(7), Federal Certification Law. This was answered in the negative by the subject.

I, the undersigned notary [redacted], located in Bremen, hereby certify the signature, made before me with his own hand, of

Mr. [redacted], born 12/02/1959, living at [redacted]

-identified by presentation of his passport of the Turkish Republic, No. [redacted] issued on 04/07/2003 by the Turkish General Consulate in Hannover.

Bremen, 16 December 2004

The notary:

[signature]
[redacted]

[seal]

[list of costs]

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Eidesstattliche Versicherung

Bleibt über die Bedeutung einer eidesstattlichen Versicherung und die Strafbarkeit unzutreffender Angaben in einer derartigen Erklärung erkläre ich,

█, geb. am 12.12.1959 in Ankara/Türkei

Nachfolgendes an Eides statt zur Vorlage im Verfahren gegen Murat Kurnaz, derzeit in Guantanamo auf Kuba:

1. Ich bin der Bruder des █, geb. am 23.07.1976 in Bremen. Mein Bruder █ wollte am 03.10.2001 gemeinsam mit Murat Kurnaz nach Pakistan fliegen. █ hatte mir und der Familie gegenüber angegeben, er wolle sich dort einige Wochen aufhalten, um den Islam zu studieren und näher kennen zu lernen. Mein Vater und ich waren gegen diese Reise. Wir empfanden die Reise zum damaligen Zeitpunkt als zu gefährlich. Krieg lag in der Luft.

2. █ wollte trotzdem fahren. Am 03.10.2001 wurde ich dann vom Bundesgrenzschutz in Frankfurt angerufen. Man teilte mir mit, dass mein Bruder █ wegen einer nicht bezahlten Geldstrafe festgenommen wurde und er ohne Zahlung des Betrages nicht fliegen könnte. Man fragte mich, ob ich die Geldstrafe für ihn bezahlen wolle. Nach Rücksprache mit meinem Vater in der Türkei habe ich den Bundesgrenzschutz dann zurückgerufen und mitgeteilt, dass ich den Geldbetrag nicht bezahlen könne. Gleichzeitig teilte ich meine Befürchtung mit, dass mein Bruder in einen erwiderten Krieg in Afghanistan geben oder gerufen könnte. Dies war meine Befürchtung - positives Wissen hierüber hatte ich nicht. █ selbst hat immer nur Pakistan als Ziel seiner Reise angegeben. Auch von Murat Kurnaz kannte ich nur das Ziel Pakistan. Ich kann also nicht behaupten, dass █ und Murat nach Afghanistan und kämpfen wollten.

Bremen, 16. Dezember 2004

Nummer 562 meiner Urkundenrolle für 2004

Der Notar wurde nach einer Vorbefassung im Sinne von § 3 Abs. 1 Nr. 7 BeurkG.
Sie wurde von dem Beteiligten vernimmt.

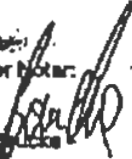
Ich, der unterzeichnete Notar [REDACTED] mit dem Amtssitz in Bremen,
beglaubige hiermit die vor mir eigenhändig vollzogene Namensunterschrift

des [REDACTED], geb. am 12.02.1969, w [REDACTED]
[REDACTED]

- ausgewiesen durch Vorlage seines gültigen türkischen Reisepasses Nr. TR N 881754,
ausgestellt am 04.07.2003 durch das türkische Generalkonsulat Hannover-

Bremen, den 16. Dezember 2004

Der Notar:



KOSTENBELEGUNG GEM. § 154 KostO

WERBUNG 1000,00

Gebühr § 141, 32, 45 i KostO

10,00 EUR

Mehrwertsteuer gem. § 151 a KostO 18%

1,80 EUR

11,80 EUR

Der Notar:



BOSTON COLLEGE

DEPARTMENT OF THEOLOGY
CHESTNUT HILL, MA 02467

January 7, 2005

Prof. Baher Azmy
Center for Social Justice
Seton Hall University School of Law
833 McCarter Highway
Newark, New Jersey 07102

Dear Prof. Azmy:

I am writing this letter in response to our discussion on the reformed religious movement in Pakistan called the *Jama'at al-Tablighi*. The knowledge I am supplying on the *Jama'at al-Tablighi* group is the combination of scholarly research, field-work research, and personal interviews in the reformed movement. This brief information will assist you and others in understanding the organization.

The *Jama'at al-Tablighi* ("The Party of Missionary Work") is approximately eighty years old and it originated in northern British India as a response to aggressive conversion campaigns by Hindu fundamentalist and Christian missionary groups. In midst of colonial rule by English rulers, the declining legitimacy of the religious authority, and communal violence between Hindus and Muslims, Indian Muslims were especially concerned with their survival and their ability to maintain their faith in a hostile environment. In the early 1900s throughout the Muslim world, there was an enormous development of Islamic revivalist movements: from Egypt, to Turkey, to Sudan, to South and Southeast Asia. The *Jama'at al-Tablighi* was one type of Islamic revivalist movement that stressed the importance of maintaining a religious identity, of adhering to Islamic ethical principles, and rediscovering the essence of religious self-understanding through texts, history, and rituals. Muhammad Ilyas (1885-1944) was the founder of the *Jama'at al-Tablighi*, and he asserted that the primary way for Muslims to defend themselves against Hindu and Christian conversion tactics was to ensure that the individual was firm in one's beliefs. The emergence of the *Jama'at al-Tablighi* as a movement in the early part of the 20th century is very much connected to the broader trend of Islamic revivalism or the reaffirmation of faith and Muslim cultural identity.

The northern India Muslim *Jama'at al-Tablighi* organization was primarily a response of survival from the aggressive attacks of Hindu proselytizing movements such as the Sangathan and Shuddhi ("Consolidation and Purification") groups. These Hindu conversion movements organized themselves to reconvert and reclaim the "lost Muslims" back to the original religious

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tradition of India. In 1927, Ilyas formally launched the *Jama'at al-Tablighi* in order to protect the Muslim community by emphasizing the Islamic tradition had to be first understood and then practiced by Muslims. However, unlike other revivalist movements, the *Jama'at al-Tablighi's* primary aim was to improve the religious knowledge of Muslims and to connect this knowledge with everyday living. It does not have any political aspirations, in fact, Ilyas and his successors, often criticize other Muslim organizations of becoming too closely connected with political institutions and losing sight of the goal of leading an ethical-religious life.

Ilyas was a scholar of the Deobandi seminary, and a follower of the mystical order Naqshbandiyya, which demonstrates a hybrid form of Islamic religious identity. After realizing the dismal state of Muslim's knowledge of Islam in his village of Mowat, he established several *madrasas* or religious learning centers. Realizing that these religious schools were not touching the masses of people, he designed a system of "door to door" missionary work (*tabligh*). He organized units of people (*jama'at*) to go to remote villages or poor urban areas and invite them to the mosque to listen to an open lecture. Muhammad Ilyas message was concise and easily understandable for the layperson: the six essential points to *Jama'at al-Tablighi* was not difficult to follow. First, each person needed to recite the testimony of faith (*shahada*) accurately and understand the various interpretations associated with the *shahadah*. Second, members needed to be able to perfect their ritual prayers by ensuring that they were correctly reciting it in Arabic. Third, according to Ilyas, Muslims needed to have a strong understanding of the essential beliefs and practices of Islam. This entailed reading collected essays and books on past prophets and the companions of Muhammad. Members of the *Jama'at al-Tablighi* were able to advance in the group by demonstrating their knowledge of these texts, and also living a life of a dedicated missionary. Fourth, Ilyas advocated that Muslims living the legacy of the past prophets meant that they inherited a unique tradition which meant that their outer living needed to maintain proper codes of behavior. To be an ethical practicing Muslim, according to Ilyas, meant that proper moral behavior (*adab*) was crucial in all aspects of life. One needed to treat elders respectfully, treat young ones with love, treat one's spouse as a partner and companion, and all of your neighbors needed to be viewed as one community. Fifth, life is mainly about seeking God and inculcating a God-consciousness at all times. The *Jama'at al-Tablighi* mission is to serve in God's cause, to help all of those in need, and to not seek worldly benefits. And Sixth, the critical component of the *Jama'at al-Tablighi* work is to commit oneself to do missionary work or *da'wa* toward other fellow Muslims. One is asked to donate time to spread the word of God to Muslims- this may range from 40 days or 10 days per year. Those who can spare 40 days may commit to 40 one-day retreats throughout the year. It is required that each member must preach up to four months in one's lifetime. According to Ilyas, the act of preaching in unfamiliar areas allows one to reflect on faith, and it was an opportunity to articulate ones understanding of religious truths to a complete stranger. The combination of enduring hardship in missionary work and connecting with people outside their normal contacts strengthened their spiritual lives.

After the partition of India in 1947, the *Jama'at al-Tablighi* established itself in each of the South Asian nations. In Pakistan, Raiwind, a small town outside of Lahore, became the headquarters for the *Jama'at al-Tablighi*. Following Muhammad Ilyas' death, his son, Maulana Yusuf (1917-1965) took control of the Pakistani *Jama'at al-Tablighi* group. His primary contributions were leading missionary groups all over South Asia, Africa, Asia, and Middle East. He established religious learning centers and his efforts in organizing the *Jama'at al-Tablighi*

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ensured continuity of the movement. Following Yusuf, Maulana Inamul Haq has led the *Jama'at al-Tablighi* and made the movement attractive for all ages around the Muslim world. He is credited to internationalizing the *Jama'at al-Tablighi* beyond the South Asian context. From the very beginning the *Jama'at al-Tablighi* has deliberately distanced itself from politics, political activities, and political controversies. The mystical influence on the *Jama'at al-Tablighi* has shaped it to view politics as an ugly form of human aspirations, where, according to them, politics brings out the worst type of behavior. In order to reform society, reforming the individual was more important than reforming political and social institutions. Their nonpolitical message is integral to their missionary work because for the *Jama'at al-Tablighi* religious truths are not confined to any political agenda or political theory.

During my field work research I was able to interview many *Jama'at al-Tablighi* members and also observe their annual meeting in Raiwind, Pakistan. The annual meeting attracts approximately one million people from 85 different nationalities. It is the second largest gathering of Muslims after the pilgrimage or *hajj* in Mecca. With guest speakers, plenary sessions, workshops, the *Jama'at al-Tablighi* annual meeting brings mainly men together focus on their religious practices and beliefs. The attraction of westerners, Europeans, Middle Easterners, Africans, and Southeastern Asians, to the annual meeting is tied to the fact that the *Jama'at al-Tablighi* is viewed as a successful group that influences internal change. Everyday laypersons meet one another and they themselves become empowered with religious authority by teaching each other. There are very little hierarchical positions in the organization, and most importantly, individuals instantaneously inherit a community of committed and friendly people. The stress on moral treatment of all people and obeying the proper code of conduct cultivates a warm friendly atmosphere. I've met people from Nepal, Turkey, Bosnia, Mali, and South Africa - all who reiterated the point that it is a non-judgmental movement that "truly wants us to reorient our lives toward good." Another dimension to the success of the *Jama'at al-Tablighi* is attributed to the failures of other political reformist movements who concentrated too much on political power and could not produce real changes to the lives of individuals or to society. For many in the *Jama'at al-Tablighi*, what matters is how the individual can gain further control in his/her own life and with this new empowerment, how can they construct a world of fairness and justice. To the members, the *Jama'at al-Tablighi's* nonpolitical activities and emphasis on the six points has proven that missionary work directed at Muslims by Muslims is the only cure for their dismal affairs, and nothing less than hard work and face-to-face interaction can improve their community.

I hope this information will help you understand the *Jama'at al-Tablighi* and its activities. If you need any further information, do not hesitate to contact me.

Sincerely Yours,
Qamar-ul Huda
Prof. of Islamic Studies & Comparative Religion
Email: [REDACTED]

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700326

Baber Azmy, Esq.
Associate Professor
Seton Hall School of Law
833 McCarter Highway
Newark, NJ 07102

Dear Professor Azmy:

At your request, I am writing to provide an expert opinion on the philosophy and activities of the Tablighi Jamaat/Jamaat al Tablighi, in connection with an administrative military proceeding your client faces as part of his detention in Guantanamo Bay, Cuba. I am currently a Professor of History and Director of the Center for South Asian Studies at the University of Michigan and have been specifically studying the Tablighi Jamaat movement for about 15 years. I have written extensively on the group and a list of my publications is attached as part of my C.V. In this letter, I will attempt to describe the general philosophy and history of the Tablighis, which should be highly relevant to understanding the circumstances of your client's travel to and within Pakistan. I will also attempt to explain why it is implausible to believe that the Tablighis support terrorism or are in any way affiliated with other terrorist or "jihadi" movements such as the Taliban or Al Qaeda.

I might begin by noting that this movement originated in India in the 1920s but its participants now are found throughout the world. A collection of articles, *Travelers in Faith: Studies of the Tablighi Jamaat as a Transnational Islamic Movement for Faith Renewal* ed. Muhammad Khalid Masud (2000) would give you a good sense of the extent and characteristics of participants in what they themselves sometimes simply call "a faith movement." (I am among the contributors to that volume.)

Five brief points:

* There is no "organization" as such, in the sense of paid staff or formal hierarchy. There is no membership. Any Muslim, man or woman, who seeks to be a better Muslim can participate as a way of honoring one's own faith through encouraging others to participate. Thus to speak of the Jamaat as a "front for" or "allied with" another organization does not make sense.

* The modus operandi of the movement is for males to join in small groups, 10-12, who travel together, perhaps in their own city, throughout a country, or internationally, ideally staying in a mosque, paying their own way, and gathering groups of Muslims (e.g. after prayers) to encourage them to correct performance of the prayer, fast, tithing, etc. In France, for example, critics refer to Tablighis as "praying machines." Women are

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expected to operate within homes or joining public meetings in mosques or halls in a women's section (I, for example, have been to gatherings of women in homes in Pakistan and a huge hall in Toronto, where a women's section was curtained off from the men and loudspeakers conveyed the preaching.) For traveling men, the presence of the group is key because it is the experience of common correct practice and exhortation, taking them out of everyday activities, that teaches them the faith. Moving from city to city in a group should be understood as standard practice, not as something suspicious.

* Ideally a group includes both more experienced participants and novices. Since many European or Turkish muslims don't know Islam well, participation might be attractive to someone very serious about learning the religion.

* Tablighis are active in Europe and North America. The volume above, for example, includes articles on France, Germany, and Belgium, and Canada.

* Participants are scrupulously a-political. Their mission is transformation of individual lives, starting with their own. More practically, they need to be seen as wholly neutral because they need the benign support of government officials so that they can conduct their travels and their meetings. Tablighis periodically gather in large meetings, annually, for example, in Dewsbury, Raiwind, Bhopal, and Dhaka, when they need permits, water trucks, special buses, etc.

Barbara D. Metcalf
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Current Position

2004- Director, Center for South Asian Studies, University of Michigan
2003- Alice Freeman Palmer Professor of History, Department of History, Univ. of MI

Previous Employment

1986-03 Professor of History, University of California, Davis
1995-98 Dean, Division of Social Sciences, College of Letters & Science, UC Davis
1991-94 Chair, Department of History, University of California, Davis
1983-86 Acquiring Editor in Asian Studies, University of California Press
1975-82 Assistant Professor of History, University of Pennsylvania
1974-75 Lecturer, South Asian Studies, University of California, Berkeley, and Field Director, Berkeley Urdu Language Program in Pakistan

Education

1974 Ph.D. Department of South/Southeast Asian Studies, University of California, Berkeley
1966 M.A. Indian Studies, University of Wisconsin, Madison
1963 B.A. History (Honors), Swarthmore College

External Awards and Fellowships

1999 Resident Fellowship, Rockefeller Study Center, Bellagio
1998 American Institute of Pakistan Studies Senior Fellowship (in Pakistan)
1991 American Academy of Arts and Sciences Grant (in Britain and Pakistan)
1990 Fulbright Islamic Civilization Fellowship (in India)
1989-90 National Endowment for the Humanities Fellowship for University Teachers
1989-90 Fellow, National Humanities Center
1985 American Institute of Pakistan Studies (in Pakistan)
1984 American Philosophical Society
1983-84 John Simon Guggenheim Memorial Fellowship
1982-83 SSRC/ACLS Post-Doctoral Award
1981-82 Fulbright-Hays Faculty Research Abroad Fellowship (in India)
1978-81 NEH Translation Grant
1969-70 American Institute of Indian Studies Junior Fellowship (in India)
1966-70 NDFL Fellowships
1963-64 Woodrow Wilson Graduate Fellowship
1963 Phi Beta Kappa

Publications

Books:
2004. Islamic Contestations: Essays on Muslims in India and Pakistan. New Delhi: OUP.
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- 1978 "The Madrasa as Deoband: A Model for Religious Education in Modern India." *Modern Asian Studies*, 12, 1: 111-34 and reprinted in *Modern India: An Interpretive Anthology* ed. Thomas R. Metcalf. Delhi: Sterling Publishers, 1990: 278-302.
- 1977 "Reflections on Iqbal's Mosque." *Journal of South Asian and Middle Eastern Studies*, 1,2: 68-74.

Selected Professional Activities

- 2002- Visiting Committee for the Humanities, MIT
- 1992- Advisory Board, Center for the Advanced Study of India (University of Pennsylvania)
- 1975- Advisory Committee, Berkeley Urdu Language Program in Pakistan
- 1999-02 Vice-President, Professional Division, American Historical Association. Member, Finance Committee
- 1986-97 General Editor of Series, *Comparative Studies on Muslim Societies*, UC Press
- 1994-00 Task Force, Institute of Islamic Civilizations, Aga Khan University (Karachi)
- 1993-97 President (1994-95), Vice President (1993-94) and Board of Trustees, Association for Asian Studies (AAS)
- 1992-96 Board of Trustees, Committee on the Int'l Exchange of Scholars (Fulbright); Chair, South Asia Panel
- 1985-91 Joint Committee on the Comparative Study of Muslim Societies, Social Science Research Council/American Council of Learned Societies (SSRC/ACLS); Chair 1985-88
- 1988-89 Executive Committee, American Pakistan Research Organization
- 1983-86 Editor, *Journal of Asian Studies*
- 1978-81 Board of Directors, AAS

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AMHERST COLLEGE

Department of Religion

PROFESSOR JAMAL J. BLUM

December 13, 2004

Baber Azmy, Esquire
Seton Hall School of Law
833 McCarter Highway
Newark, NJ 07102

Dear Professor Azmy:

At your request, I am writing to provide an expert opinion on the philosophy and activities of the Tablighi Jama'at movement, in connection with an administrative military proceeding your client faces as part of his detention in Guantanamo Bay, Cuba. I hold the position of Professor of Religion at Amherst College, with a specialization in Islamic thought. One of my books on Islam has been translated into five languages and I have written quite extensively on religion in contemporary Pakistan. My most recent research trip to the country was in December 2003 and was focused in large part on the Tablighi Jama'at, their emphasis on travel and their attitudes toward international and domestic Pakistani politics.

In this letter, I will attempt to describe the general philosophy and history of the Tablighis (the common term for the members of the Tablighi Jama'at movement), which should be highly relevant to understanding the circumstances of your client's travel to and within Pakistan. I will also attempt to explain why it is extremely implausible that the Tablighis support terrorism or are in any way affiliated with any terrorist or "jihadist" movements such as the Taliban or Al Qaeda, or even with extremist movements operating in Pakistan.

The formal beginnings of the organization date from the mid-1930s when the Tablighi Jama'at first emerged as a movement aimed at reforming Muslims through greater adherence to ritual, particularly to prayer. Since that time, their fundamental beliefs have consisted of Six Principles (*Chha Urd*): (i) the Islamic creedal formula (There is no god but Allah, and Muhammad is the messenger of Allah) is an individual covenant with God which has to be understood in its true meaning and with all its implications; (ii) prayer is the most important ritual obligation of a Muslim and should be performed in a congregation whenever possible; (iii) religious knowledge (*ilm*) and remembrance of God (*dhikr*) are obligatory for every Muslim, and both derive from the study of the Qur'an; (iv) respect for all Muslims is imperative (kind treatment of all non-Muslims is actively encouraged but it is not an explicit principle); (v) sincerity of purpose (*ikhlas-e niyyat*) is obligatory, in the sense that all acts must have appropriate intentions since, in the absence of such intention, even good acts will not be rewarded by God; and (vi) members must donate time (*tafagh-e waqt*) to the movement to engage in missionary activity.

The last principle refers to the obligation of members of the Tablighi Jama'at to take time from their regular lives to travel and actively engage in spreading the message of the movement in the Muslim community. The sixth principle is also referred to as

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tabligh, emphasizing its centrality as a doctrine. Depending on the interpretation, a follower of the movement is required to spend between one day and four months a year traveling to call people to the movement (other teachings state that this obligation can be met by traveling as a missionary for four months cumulatively during the course of one's lifetime). Local, regional and international travel as *tabligh* has come to fulfill the Muslim obligation to 'strive in the path of God' (*Jihad fi sabil Allah*) in Tablighi understanding.

I must emphasize this last point, that the Tablighis formally and actively believe that traveling to engage in missionary activity fully discharges any religious obligation to engage in *Jihad*. This is fully in keeping with others of the Six Principles which take a spiritual interpretation of rituals such as prayer and emphasize an almost mystical (*Sufi*) understanding of the nature of religious knowledge and remembrance of God. Followers of the Tablighi Jama'at are forbidden from actively participating in politics or extremist movements, a stand that has frequently put them in conflict with religious political parties in Pakistan.

Personal reform through prayer is one of the most identifiable features of the Tablighi Jama'at movement. At the same time, travel (including international travel) has become an essential characteristic of the movement through which followers not only call others to the 'true faith' (i.e. engage in *da'wa*), but also a means for self-improvement. As such, there is absolutely nothing out of the ordinary for a young man in Germany to associate with the Tablighi Jama'at movement in a personal spiritual attempt to discover (or rediscover) his faith. If he were to do so, it would be completely expected that he would end up traveling with a group of Tablighi men as a necessary requirement of their faith. Given that Pakistan forms the practical international center of this movement, it would be logical that his early travels would take him there where he would not only meet with other members of the movement but would be expected to travel from city to city as part of the sixth formal principle of their movement. I would also posit that it would be especially important to members of the movement to take new European converts around with them when they were traveling in Pakistan because it would help with missionary activity: "prize" converts - people from exotic or more economically developed backgrounds - are used by many religious movements the world over to show off the attractiveness or dynamism of their message, its "truth" as it were. It is a major part of the public rhetoric of the Tablighi Jama'at that their movement contains people from all over the world and that their annual gatherings at Raiwind in Pakistan and Tongi in Bangladesh have a wide international attendance. There is some circumstantial evidence to suggest that extremist groups have been trying to infiltrate the Tablighi Jama'at's annual gathering at Raiwind either to make trouble or else to win converts from the million-strong crowd that congregates there. However, it is important to note that these extremist groups are not condoned by the structure, leadership or teachings of the Tablighi Jama'at, that they would be using a very large crowd as cover as opposed to infiltrating the rank and file of the movement, and that they would be there to win converts AWAY from the Tablighis, not to share with them in any ideological or political sense. Furthermore, I gather that your client is not accused of attending the annual gathering at Raiwind; it is therefore highly unlikely that he would have had contact with any extremist or "jihadist" groups through his travels with the Tablighis.

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In conclusion, I would like to state that, in light of the formal emphasis the Tablighi Jama'at places on encouraging personal spiritual reform through prayer and studying the Qur'an, it would be very natural for a young Muslim in Europe to get involved with them in order to become more religious. Given the importance placed on group travel for purposes of missionary activity and self-improvement in the teachings of the movement, it would follow that he would then join with other Tablighi men and journey to Pakistan, the functional center of their movement. While there, he would be expected to go from town to town with these and other members of the movement in order to fulfill his religious obligations and increase his sense of fellowship. There is absolutely nothing in these activities to suggest that he either started out with any desire to join a political or extremist group or that he would have had contact with them in Pakistan. On the contrary, affiliation with the Tablighi Jama'at would normally mean that one had made the conscious decision to distance oneself from politics and armed conflict.

Sincerely,

Jamal J. Elias

Jamal J. Elias
Professor of Religion
Amherst College
Amherst, MA 01002-5000

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Muvat and [REDACTED] Kunqz

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Department of Defense
Office for the Administrative Review
of the Detention of Enemy Combatants (OARDEC)
at U.S. Naval Base Guantanamo Bay, Cuba
1010 Defense Pentagon, Washington, D.C. 20301-1010

~~SECRET//NOFORN~~
ACTION MEMO

FOR: Designated Civilian Official

FROM: Director, OARDEC *7/6/06*

SUBJECT: ADMINISTRATIVE REVIEW BOARD ASSESSMENT AND RECOMMENDATION
 ICO ISN 061 (TURKEY/GERMANY)

o Subject ARB was held on 30 June 2006 resulting in a unanimous recommendation to [REDACTED] based on the following:

- Threat Assessment: [REDACTED]
- Intelligence Value: [REDACTED]
- Other Factors: [REDACTED]

o Intelligence inputs used in the ARB's determination of this EC's case include:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

o Agency assessments follow:

DASD-DA	[REDACTED]
CIA	[REDACTED]
FBI	[REDACTED]
Dept of State	[REDACTED]

o The Legal Sufficiency Review (Tab A) and the Presiding Officer's Assessment and Recommendation (Tab B) with enclosures are attached.

RECOMMENDATION: That the DCO [REDACTED] approve transfer under appropriate conditions to control of the Government of Germany by initialing:

[REDACTED] approve transfer *[Signature]*
7-6-06

Or Detain _____ Release _____

Attachments:

- Tab A OARDEC SJA Legal Sufficiency Review
- Tab B Presiding Officer's Assessment and Recommendation

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3 Jul 06




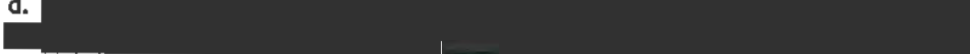
From: Staff Judge Advocate, OARDEC
To: Designated Civilian Official
Via: Director, OARDEC *[Signature]*

Subj: LEGAL SUFFICIENCY REVIEW OF ADMINISTRATIVE REVIEW BOARD FOR
DETAINEE ISN # 061

Ref: (a) Sections 1405(a)(3) and 1405(b) of Detainee Treatment Act of 2005
(b) Deputy Secretary of Defense Order OSD 06942-04 of 11 May 04
(c) Designated Civilian Official Implementation Directive of 14 Sep 04

Encl: (1) ARB Panel #50 Presiding Officer memo of 30 Jun 06

1. A legal sufficiency review has been completed on the subject Administrative Review Board (ARB) in accordance with references (a), (b), and (c). After reviewing enclosure (1), I find that:

- a. 
- b. 
- c. 
- d. 

2. The ARB unanimously assessed this detainee  unanimously recommends 

3. The detainee is a habeas petitioner in the case of Kurnaz v. Bush, Civil Action No. 04-1135 (D.D.C.). As of the date of this memorandum, there is a court order requiring the government to provide the detainee's counsel and the court 30-day notice prior to transferring the detainee from U.S. Naval Base Guantánamo Bay.

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ATTORNEY WORK PRODUCT~~

Subj: LEGAL SUFFICIENCY REVIEW OF ADMINISTRATIVE REVIEW BOARD FOR
DETAINEE ISN # 061

4. [REDACTED]

[REDACTED]
CDR, JAGC, U.S. Navy

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ATTORNEY WORK PRODUCT~~

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DEPARTMENT OF DEFENSE
OFFICE FOR THE ADMINISTRATIVE REVIEW OF
THE DETENTION OF ENEMY COMBATANTS (OARDEC)
AT U.S. NAVAL BASE GUANTANAMO BAY, CUBA
1610 DEFENSE PENTAGON, WASHINGTON, D. C. 20301-1010

30 June 2006

From: Presiding Officer of Administrative Review Board Panel #50 (U)
To: Designated Civilian Official (U)
Via: Director, OARDEC (U)

Subj: (U) ASSESSMENT AND RECOMMENDATION FOR THE ADMINISTRATIVE
REVIEW OF THE DETENTION OF ENEMY COMBATANT ISN 061 (U)

Ref: (a) (U) Deputy Secretary of Defense Order OSD 06942-04 of 11 May 04 (U)
(b) (U) Administrative Review Board Implementation Order of 14 Sep 04 (U)

Encl: (1) (U) Director, OARDEC, Memorandum for the Record of 25 May 06 (U)
(2) (U) Notification of the Decision of an Administrative Review Board (U)
(3) (U) Enemy Combatant Election Form (U)
(4) (U) Classified Record of Proceedings and Basis for ARB (S//NF//OC)
(5) (U) Copies of Documented Evidence Presented to the Board (S//NF//OC)

1. (U) Per references (a) and (b), an Administrative Review Board was conducted on 30 June 2006 to determine whether subject Enemy Combatant continues to be a threat to the United States and its allies or whether there are reasons to further detain him in U.S. custody. Enclosures (1) through (5) pertain.

2. ~~(S//NF)~~ After review and deliberation, Administrative Review Board Panel #50 determined by a vote of 3 to 0 that Enemy Combatant ISN 061 [REDACTED].
[REDACTED] The Board specifically determined the following:

Threat Assessment
Intelligence Value
Other Factors

[REDACTED]

3. ~~(S//NF)~~ The Administrative Review Board recommends to the Designated Civilian Official that the Enemy Combatant [REDACTED].
[REDACTED]

Colonel, USAF
Presiding Officer

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Department of Defense
Office for the Administrative Review
of the Detention of Enemy Combatants (OARDEC)
at U.S. Naval Base Guantanamo Bay, Cuba
1010 Defense Pentagon, Washington, D.C. 20301-1010

25 May 2006

MEMORANDUM FOR THE RECORD

Subj: ADMINISTRATIVE REVIEW BOARD # 50

Ref: (a) DCO Appointing Order of 3 May 05
(b) DCO Appointing Order of 26 Apr 06
(c) DCO Appointing Order of 25 May 06

1. By the authority established by references (a), (b) and (c), an Administrative Review Board (ARB) to review the detention of enemy combatants at U.S. Naval Base Guantanamo Bay, Cuba, is hereby convened. The following commissioned officers shall serve as members of ARB Panel # 50:

MEMBERS:

██████████ Colonel, U.S. Air Force; Presiding Officer

██████████ Lieutenant Commander, U.S. Navy; Member (experienced in the field of intelligence)

██████████ Lieutenant Colonel, U.S. Air Force, Member

Frank Sweigart
FRANK SWEIGART
Director

Enclosure (1)
Page 1 of 1

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NOTIFICATION OF THE DECISION OF AN ADMINISTRATIVE REVIEW BOARD ICD 18R 061 TO CONTINUE DETENTION

An Administrative Review Board has reviewed the information about you that was talked about at the meeting on 04 Nov 2005 and the deciding official in the United States has made a decision about what will happen to you.

You will continue to be kept at Guantanamo Bay for at least one more year. You will have another meeting about one year after the date of the last meeting. The purpose of the next meeting will be to decide if you are still a threat to the United States and its friends or if there is any other reason to keep you here. At the next meeting to review your case, the Board will consider all the information it has about you, including anything you tell them at the meeting, how you have been acting, if you are obeying the camp rules, if you are working with the United States government trying to help, and if you still want to wage jihad against Americans and their friends. The Board will also look at written statements, if any are provided, from you, your family, and your friends. We recommend that you write to your family and friends and ask them to send you written statements that will help show the Board that you are not dangerous to Americans and their friends. If the Board thinks you no longer pose a threat to the security of Americans and their friends, it will suggest to the deciding official in the United States that you be transferred or released from Guantanamo Bay. The deciding official in the United States makes the final decision.

Date: 11 January 2006

Signature of Officer Serving Notice: 

Printed Name of Officer Serving Notice:  LCDR, USN

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Enclosure (2)
EC-A

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Enemy Combatant Election Form

Initial Interview Date/Time: 29 June 2006/1400

ISN#: 061

Assisting Military Officer: [REDACTED] LTC, USA

Translator Required? No

Language: English

- Verified the Enemy Combatant was notified of the DCO decision from his 2005 ARB Review
- Verified that Administrative Review Board (ARB) procedures were explained
- Linguist read the Unclassified Summary of Evidence to Enemy Combatant in the Detainee's native language or detainee read copy of Unclassified Summary of Evidence

Enemy Combatant Election:

- Wants to appear personally in ARB Proceedings
- Wants assistance of Assisting Military Officer (AMO)
- Affirmatively declines to appear personally in ARB Proceedings
- Uncooperative or unresponsive
- Wants to respond to each statement of information in Unclassified Summary after it is presented
- Wants to wait until entire Unclassified Summary has been presented before responding
- Other (see below)

Assisting Military Officer Comments:

The detainee's ARB interview was conducted on 29 June 2006. After reviewing the ARB's purpose and procedures, the English 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 was initially noncommittal, however later stated he did not wish to attend, nor have the AMO present any information or written documents on his behalf. The detainee was very cooperative, attentive, and polite throughout the interview. A copy of the English translated Unclassified Summary of Evidence was available to the detainee.

ISN-061
Enclosure (3)
EC-B
Page 1 of 2

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Additional Comments:

The detainee appeared at his interview wearing a tan uniform. The detainee was asked if he understood the ARB process and were there any questions about the Unclassified Summary of Evidence? *The detainee stated he completely understood the ARB process and had no questions concerning the Unclassified Summary of Evidence.*

After further pursuing the detainee's nonparticipation in the ARB *the detainee stated, it was just a game that Bush and Cheney only know. If they want to keep you here they will, if they want to release you they will. The United States is making a big mistake.*

Detainee Comments:

None

Signature of Officer Conducting Interview:

Typed Name of Officer Conducting Interview:


_____, LTC, USA

ISN-061
Enclosure (3)
EC-B
Page 2 of 2

UNCLASSIFIED

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(U) CLASSIFIED RECORD OF PROCEEDINGS AND BASIS FOR ADMINISTRATIVE
REVIEW BOARD DECISION FOR ISN 061

1. (U) Introduction

a. (U) An Administrative Review Board (ARB) was held pertaining to the subject Enemy Combatant (EC). In reaching the ARB's conclusions and recommendations, the ARB considered both classified and unclassified information. The following record of the proceedings presents the factors the ARB used in making its recommendation.

2. (U) Synopsis of Proceedings

a. (U) The EC declined to attend the ARB, and consequently the Board convened without the EC present.

b. (U) The Designated Military Officer (DMO) presented the Unclassified Summary in both written and oral form.

c. (U) The Assisting Military Officer (AMO) presented the Notification of the Decision of an ARB as Exhibit EC-A, identified herein as enclosure (2). The AMO then presented the Enemy Combatant Election Form as Exhibit EC-B, identified herein as enclosure (3). Exhibit EC-B indicated the EC affirmatively declined to personally appear in the ARB proceedings. The AMO verbally summarized comments the EC made during the AMO's interview; this statement is documented in Exhibit EC-B.

d. (U) A translator was not required to be present during the AMO's interview, as the EC spoke and understood English. The ARB confirmed the Unclassified Summary of Evidence was read to the EC, and that the EC fully understood the process.

e. (U) The Board reviewed and considered the associated SCI material for this case and considered it relevant and significant. This information is being forwarded separately via JWICS to the Director, OARDEC.

f. (U) The unclassified portion of the proceeding was adjourned. The ARB convened the classified session and the DMO presented the Classified Summary. The ARB panel members reviewed the classified exhibits and then closed the session for deliberation.

g. (U) The ARB has complied with the Detainee Treatment Act of 2005. In making a determination of status or disposition of this detainee, the ARB has assessed, to the extent practicable, whether any statement derived from or relating to this detainee was obtained as a result of coercion; and the probative value, if any, of any such statement. In addition, the ARB considered any new evidence that became available relating to the enemy combatant status of this detainee.

ISN 061
Enclosure (4)
Page 1 of 7

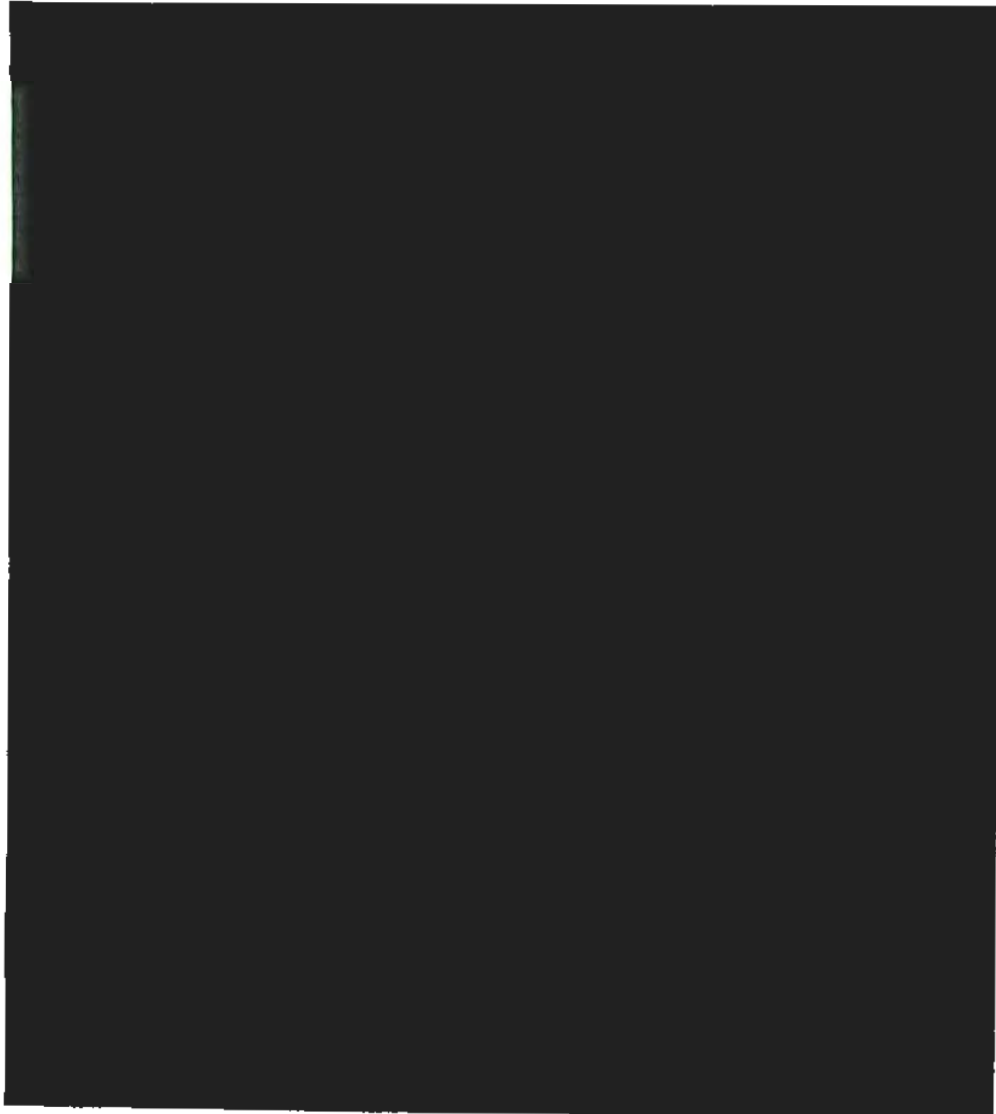
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3. (U) Summary of Information Considered

a. (U) The ARB reviewed the ARB 1 package.

b. (U) The following government agency and command assessments were considered by the ARB and are summarized below. The specific agency and command assessments are included herein within enclosure (5):

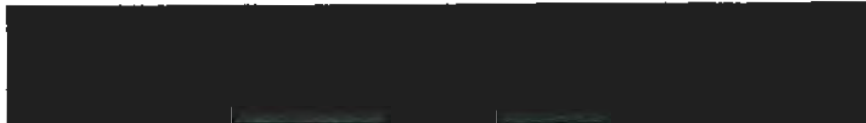


ISN 061
Enclosure (4)
Page 2 of 7

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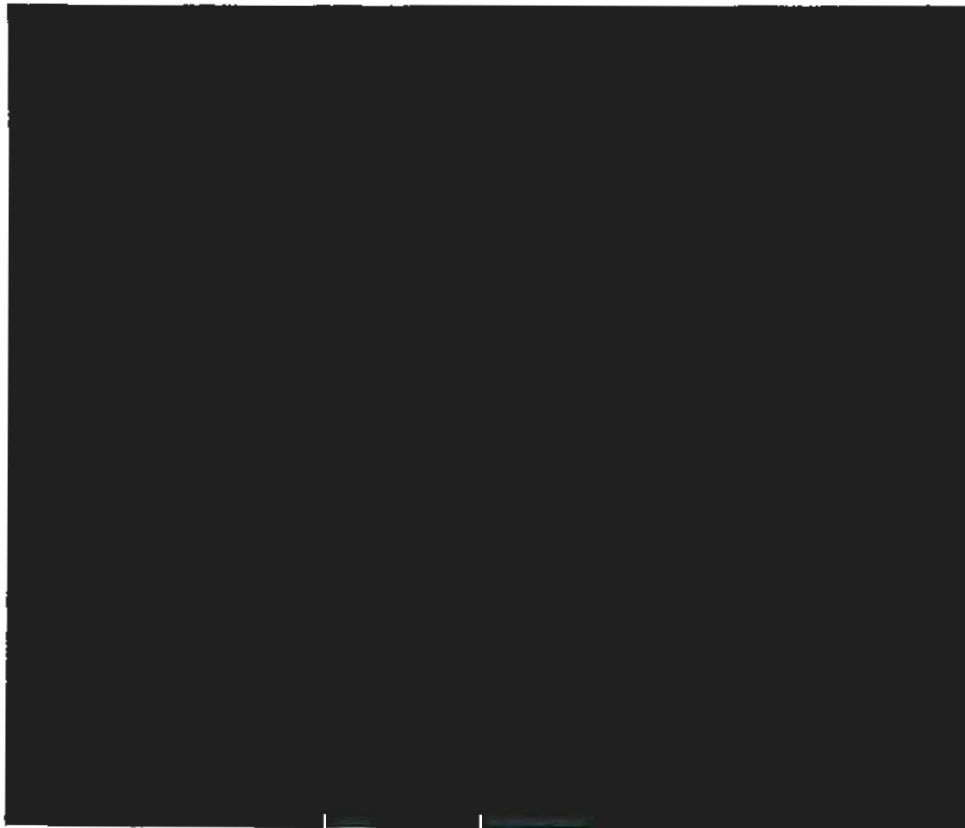
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4. (U) **Primary Factors (Including Intelligence Value and Law Enforcement Value of the Enemy Combatant)**

(U) The ARB considered the above agency and command assessments and the following key indicators in the ARB's threat and intelligence assessment of the EC:

a. (U) Recruitment



ISN 061
Enclosure (4)
Page 3 of 7

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b. (U) Travel

[REDACTED]

c. (U) Operations, Combat and Captures

[REDACTED]

d. (U) Organizational Affiliations

[REDACTED]

e. (U) Individual Affiliations

[REDACTED]

ISN 061
Enclosure (4)
Page 4 of 7

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[REDACTED]

f. (U) Behavior

[REDACTED]

g. (U) Other Information

(1) ~~(S//NF//OC)~~ The EC was born and raised in Germany, but claims Turkish citizenship.
([REDACTED])

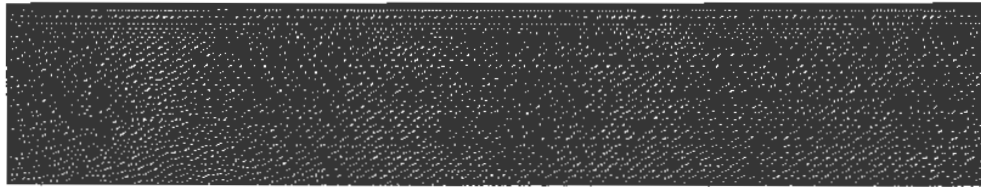
[REDACTED]

(3) ~~(S//NF)~~

[REDACTED]

h. (U) Factors in Support of Release

[REDACTED]



5. (U) Third Party / Home Country Statements

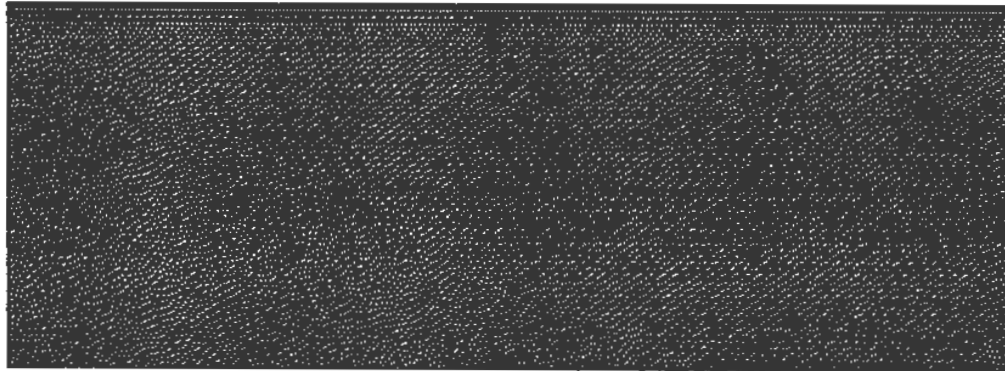
a. (U) The EC claims Turkish citizenship. No third party or home country statements were provided.

6. (U) Consultations with the Administrative Review Board Legal Advisor

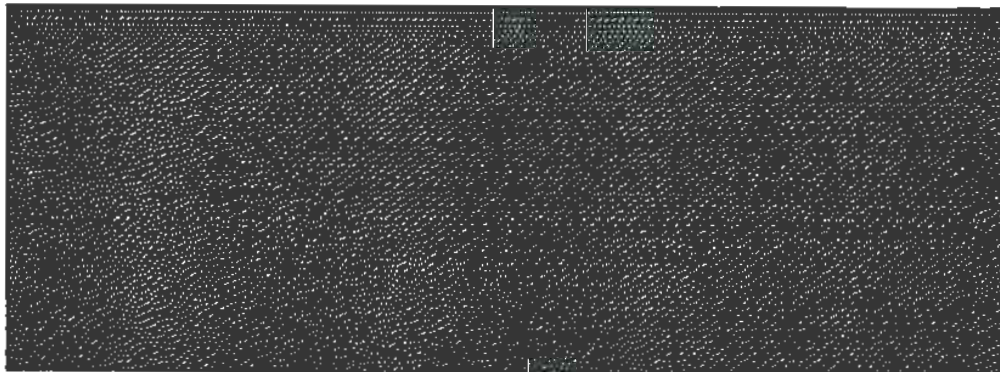


7. (U) Conclusions and Recommendation of the Administrative Review Board

a. ~~(S//NF)~~ Threat Level. The EC poses a [redacted] threat to the U.S. and its allies due to the following factors:



b. ~~(S//NF)~~ Intelligence Value. The EC is of [redacted] intelligence value due to his knowledge of the following:



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[REDACTED]

c. (S//NF) Recommendation. EC 061 should be [REDACTED]

8. (U) Board Members' Voting Results

a. (U) The Board reached a unanimous decision.

[REDACTED]

Colonel, USAF
Presiding Officer

1SN 061
Enclosure (4)
Page 7 of 7

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Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

28 June 2006

COPIES OF DOCUMENTED EVIDENCE PRESENTED TO THE BOARD

ISN: ██████████0061 ████████ Name: KARNAZ, MURAT Country: Turkey
Alias: KUNN, MURAT // MOURAD KOURNAZ
Variant: KURNAZ, MURAT

Exhibit #	Date	Classification	Agency	Description	Class Footnote
DMO-1	6/28/2006	UNCLASSIFIED	ORDEC	(U) Unclassified Summary	
DMO-2	6/27/2006	UNCLASSIFIED	FBI	(U) Redaction Memo	
DMO-3	N/A	UNCLASSIFIED	N/A	N/A	
DMO-4	2/14/2006	UNCLASSIFIED	Open Source	(U) Munich Focus in German	15
DMO-5	6/28/2006	SECRET // NOFORN // OC	ORDEC	(U) Classified Summary	
DMO-6	6/27/2006	SECRET // NOFORN	DASD-DA	(U) DoD Assessment	1
DMO-7					2
DMO-8	5/31/2006	FOUO // LES	FBI	(U) Assessment	3
DMO-9	5/18/2006	SECRET // NOFORN // OC	CITF	(U) Assessment	4
DMO-10	5/25/2006	SECRET // NOFORN	USSOUTHCOM	(U) Assessment	5
DMO-11	5/19/2006	SECRET // NOFORN	JTF-GTMO	(U) Recommendation	6
DMO-12	1/5/2006	SECRET // NOFORN	ORDEC	(U) Reference to ARB I	7
DMO-13	2/21/2002	SECRET	JIFSOUTH	(U) Knowledgeability Brief	8
DMO-14	3/20/2002	FOUO // LES	FBI	(U) FD-302	9
DMO-15	4/19/2003	FOUO // LES	FBI	(U) FD-302	10
DMO-16					11
DMO-17	3/4/2003	FOUO // LES	FBI	(U) FD-302	12
DMO-18	3/17/2004	SECRET // NOFORN	JIFSOUTH	(U) IIR ██████████	13
DMO-19	3/31/2003	FOUO // LES	FBI	(U) FD-302	14
DMO-20					16
DMO-21	6/18/2003	FOUO // LES	FBI	(U) FD-302	17
DMO-22	6/28/2006	SECRET // NOFORN	JTF-GTMO	(U) ASP INTREP Activity	

~~Derived From Multiple Sources
Declassify On: ██████████~~

Enclosure (5)
Page 1 of 1

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UNCLASSIFIED

Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

28 June 2006

TO: KARNAZ, MURAT

SUBJECT: UNCLASSIFIED SUMMARY OF EVIDENCE FOR ADMINISTRATIVE
REVIEW BOARD IN THE CASE OF KARNAZ, MURAT

1. An Administrative Review Board will be convened to review your case to determine if your continued detention is necessary.

2. The Administrative Review Board will conduct a comprehensive review of all reasonably available and relevant information regarding your case. At the conclusion of this review the Board will make a recommendation to: (1) release you to your home state; (2) transfer you to your home state, with conditions agreed upon by the United States and your home state; or (3) continue your detention under United States control.

3. The following primary factors favor continued detention:

a. Commitment

1. The detainee claimed that he learned Islam in mosques in Germany but wanted to increase his knowledge. He felt the lessons in Germany were slow and wanted to learn more quickly. The detainee planned to go to Pakistan for one to two months. He had planned to return to Germany after his training to be with his new wife.

2. On 3 October 2001, both the detainee and a friend attempted to depart a Germany airport for Pakistan. His friend, however, was stopped, questioned, and detained concerning various unpaid legal fees. The detainee was then forced to travel to Pakistan alone.

3. The detainee claimed he traveled to various sites in Pakistan to study the Kuran. He was sponsored by the Jamayat al Tehliq organization.

4. The detainee claimed that Pakistani police officials captured him while traveling by bus to Peshawar, Pakistan.

5. A source identified the detainee as being one of seven individuals that were captured at Tora Bora, Afghanistan. The source also claimed that several of the individuals that were arrested with the detainee were Mujahedin fighters.

DMO Exhibit 1
Page 1 of 2

UNCLASSIFIED

700353

UNCLASSIFIED

SUBJECT: UNCLASSIFIED SUMMARY OF EVIDENCE FOR ADMINISTRATIVE REVIEW BOARD IN THE CASE OF KARNAZ, MURAT

b. Connections/Associations

1. The detainee stated that his father would take him and his brothers to the Kubra Mosque, where he first met individuals from the Jamayat Tabliq.

2. The detainee stated that he traveled from Bremen, Germany approximately fifteen to thirty minutes, by train, to a meeting held by the Jamayat Tabligh. He denied that the Jamaat Tabligh discussed recruitment for fighting while he was at the meeting.

3. According to German open source reporting, the detainee left Germany and headed to Afghanistan. Prior to the detainee's departure, he appears to have met an ethnic Syrian German citizen who was a friend of 11 September 2001 killer pilot Muammad Ata. This individual sent the detainee to Afghanistan for terrorist training, just like Ata's group before him.

4. The detainee identified a picture of the Elalanutas suicide bomber as possibly his former friend.

4. The following primary factors favor release or transfer:

a. The detainee denied having any knowledge of the attacks in the United States prior to their execution on 11 September 2001, and also denied knowledge of any rumors or plans of future attacks on the United States or United States interests.

b. The detainee denied ever having received any weapons training when he traveled to Pakistan, and also denied ever having a weapon there.

c. The detainee stated that he was not a terrorist. He also claimed to have no association to al Qaida or Osama bin Laden.

d. The detainee stated that no one asked him to fight. He stated that Jamayat Tabliq did not fight with guns and used words to teach instead. The detainee stated that he was not interested in fighting, and that it was not his war.

5. You will be afforded a meaningful opportunity to be heard and to present information to the Board; this includes an opportunity to be physically present at the proceeding. The Assisting Military Officer (AMO) will assist you in reviewing all relevant and reasonably available unclassified information regarding your case. The AMO is not an advocate for or against continued detention, nor may the AMO form a confidential relationship with you or represent you in any other matter.

UNCLASSIFIED

~~FOUO/LES~~



Memorandum

To : Department of Defense
Office of Administrative Review
for Detained Enemy Combatants

Date: 6/27/2006

From : FBI GTMO
Counterterrorism Division
Asst. Gen. Counsel [REDACTED]

Subject: REQUEST FOR REDACTION OF
NATIONAL SECURITY INFORMATION
ISM 061
UNCLASSIFIED SUMMARY

Pursuant to the Secretary of the Navy Order of 14 September 2004, Implementation of Administrative Review of the Detention of Enemy Combatants at Guantanamo Bay Naval Base, Cuba, the FBI requests redaction of the information herein marked¹. The FBI makes this request on the basis that said information relates to the national security of the United States². Inappropriate dissemination of said information could damage the national security of the United States and compromise ongoing FBI investigations.

CERTIFICATION THAT REDACTED INFORMATION DOES NOT SUPPORT A DETERMINATION THAT THE DETAINEE IS NOT A THREAT TO THE U.S. OR ITS ALLIES.

The FBI certifies that withheld information is not relevant to the determination as to whether an enemy combatant should continue to be detained because he is a threat to the United States or its allies or whether there are other factors bearing upon the need for continued detention such as his intelligence value, and any law enforcement interest.

The following documents relative to the referenced ISN have been redacted by the FBI and provided to the OARDEC:

FD-302 dated 06/18/2003
FD-302 dated 04/19/2003
FD-302 dated 03/20/2002
FD-302 dated 03/31/2003
FD-302 dated 03/04/2003

¹Redactions are blackened out on the OARDEC provided FBI document.

DMO Exhibit 2
PAGE 1 OF 2

~~FOUO/LES~~

~~FOUO//LES~~

Memorandum
See Executive Order 12958, as amended by 13258



To : If you need additional assistance, please contact [redacted]

[redacted]

- 1 - Mr. [redacted]
- 1 - Mr. [redacted]
- 1 - Mr. [redacted]
- 1 - [redacted]

HC:nc

PAGE 2 OF 2

~~FOUO//LES~~

UNCLASSIFIED

**DMO-3 is
Reserved
for
CITF Redaction Memorandum**

(No Redaction Memorandum
Is Needed For This ISN)

DMO Exhibit 3
Page 1 of 1

UNCLASSIFIED

700357

UNCLASSIFIED



Open Source Center

Document ID: EUP20060214086010
Entry Date: 02/14/2006
Content Type: Translation/Transcription
Version Number: 01

Region: Asia, Europe, Middle East, Americas

Sub-Region: South Asia, North Europe, Middle East, North Americas

Country: Afghanistan, Germany, Syria, United States

Topic: INTERNATIONAL POLITICAL, LEADER, TERRORISM

Source-Date: 02/14/2006

German Terror Suspect's Likely Release From Camp Delta Said To Pose Problem

EUP20060214086010 Munich Focus in German 14 Feb 06 p 46

[Report by Hubert Gude: "Terrorism: 'Keep an Eye on Him:' The US Government Plans To Release the 'Bremen Taliban' From Guantanamo Bay, Subject to Certain Conditions"]

[OSC Translated Text]

For Angela Merkel, it was an unexpected breakthrough. The federal chancellor did not mince her words in the Oval Office on 13 January, in criticizing the US prison camp at Guantanamo Bay, and the detention there of Murat Kurnaz, the "Bremen Taliban." This ethnic Turkish German citizen has been held without trial at the notorious US base on Cuba for more than three years. US President George W. Bush made the German chancellor an offer she could not refuse: Kurnaz could be released, on condition that Germany undertook to provide "security guarantees" for him. The President and Secretary of State Condoleezza Rice made a point of insisting that Kurnaz is rated as dangerous by the United States.

The US initiative could prove to be a turning-point in the case of 23-year old Guantanamo Bay detainee Kurnaz. The German Embassy in Washington is now negotiating with US security experts on the required guarantees, the details of which are being discussed by Foreign Office (AA) diplomats and security

DMO Exhibit 4
Page 1 of 2

UNCLASSIFIED

300358

UNCLASSIFIED

specialists based in the Federal Chancellery. The German guarantee to subject the homecomer [see below] to such provisions as cast-iron surveillance may take the form of a memorandum or an accord.

The chancellor's political success in the Kurnaz case nevertheless poses a dilemma. For, despite the clear breach of the principles of the rule of law entailed in the detention of the Bremen-born radical, who is said to have complained to his attorney of having undergone torture at Guantanamo Bay, neither the federal government, nor the regional state of Bremen really wishes to have this trained shipbuilder back. In May 2004, the Federal Interior Ministry issued a prohibition order against Kurnaz's re-entry, while the Bremen aliens authority withdrew his right of residency. Both these decisions were subsequently overturned by a ruling of the Federal Administrative Court in Berlin.

Shortly after the 9/11 attacks, Kurnaz left Germany, heading for Afghanistan. He set his cellphone to display the letters *TALIBAN* whenever he switched it on. The Americans arranged for the Islamist's contacts in Hamburg to be bugged. He appears to have met ethnic Syrian German citizen Haydar Zammar, a friend of 9/11 killer pilot Muammad Ata, in the city's *Al Nur* mosque. Zammar, who has been questioned by German security officials in the Syrian prison where he is held, reported that he had sent Kurnaz to Afghanistan for terrorist training - just like Ata's group before him. On his way there, Kurnaz was dragged from a bus by the Pakistani police, who handed him over to the Americans.

Since the "Bremen Taliban" was questioned at Guantanamo Bay by Federal Intelligence Service [BND] agents, his case also looks likely to figure in a possible committee of inquiry's investigation of the BND. Kurnaz told them about the recruitment and training of Islamists, though he claimed not to be a terrorist himself.

[The German term used here, *Heimkehrer*, has elements of irony, connoting as it does the roughly two million German soldiers who returned home from captivity, particularly in the Soviet Union, after the Second World War.]

[Description of Source: Munich Focus in German -- centrist weekly news magazine]

Attachments:

bremen.bmp

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~~SECRET // NOFORN // ORCON~~

Department of Defense
Office for the Administrative Review of the Detention of Enemy
Combatants at US Naval Base Guantanamo Bay, Cuba

28 June 2006

[REDACTED]
Alias: KUNN, MURAT // MOURAD KOURNAZ

Variants: MURAT KURNAZ

Summary

(S) The detainee is 24-years old and was born and raised in Bremen, Germany but claims Turkish citizenship. [REDACTED]

(S) The detainee claimed that he has had no formal education or military training. He can speak native German and Turkish and fluent English. [REDACTED]

(FOUOLES) The detainee stated that he lived with his mother, father, and two brothers all his life. [REDACTED]

(FOUOLES) The detainee is married to [REDACTED] who lived in Turkey and planned to travel to Germany in December 2001 to be with him. She was in Turkey due to the fact that she was not a German citizen, and she would be required to apply for various papers prior to traveling to Germany to stay with him. [REDACTED]

(FOUOLES) The detainee stated that his father would take him and his brothers to the Kubra Mosque, where he first met individuals from the Jamat-al-Tabligh (orig: Jamayat Tabliq). [REDACTED]

(FOUOLES) The detainee stated that he traveled from Bremen, Germany approximately fifteen to thirty minutes by train, to a meeting held by the Jamat-al-Tabligh (orig: Jamaat Tabligh). He denied that the Jamat-al-Tabligh discussed recruitment for fighting while he was at the meeting. [REDACTED]

[REDACTED]

~~Derived From:
Declassify On:~~ [REDACTED]

DMO Exhibit 5
Page 1 of 6

~~SECRET // NOFORN // ORCON~~

700360

[REDACTED]

(FOUO//LES) The detainee claimed that he learned Islam in mosques in Germany but wanted to increase his knowledge. He felt the lessons in Germany were slow and wanted to learn more quickly. The detainee was planning to go to Pakistan for one to two months. He had planned to return to Germany after his training to be with his new wife. [REDACTED]

(U) According to German open source reporting, the detainee left Germany and headed to Afghanistan. Prior to the detainee's departure, he appeared to have met ethnic [REDACTED], a friend of 11 September 2001 killer pilot Muhammad Atta. [REDACTED] reportedly sent the detainee to Afghanistan for terrorist training, just like Atta's group before him. [REDACTED]

(FOUO//LES) On 3 October 2001, both the detainee and his friend, [REDACTED], attempted to depart the Frankfurt, Germany airport for Pakistan. [REDACTED] however, was stopped, questioned, and detained concerning various unpaid legal fees. The detainee was then forced to travel to Pakistan alone. [REDACTED]

[REDACTED]

(FOUO//LES) The detainee claimed that [REDACTED] captured him while traveling by bus to Peshawar, Pakistan. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(U) The following primary factors favor release or transfer:

[REDACTED]

[REDACTED]

[REDACTED]

Military Commission Potential

~~(S//NF)~~ At this stage in the investigation, the detainee is [REDACTED] a Military Commission candidate. ([REDACTED])

DASD-DA Recommendation (FOOTNOTE 1)

~~(S//NF)~~ Threat Assessment

Level

[REDACTED]

~~(S//NF)~~ Intel Assessment

Level

[REDACTED]

~~(S)~~ Recommendation.

[REDACTED]

[REDACTED]

~~SECRET // NOFORN // ORCON~~

ISN: [REDACTED] 061 [REDACTED]

Name: KARNAZ, MURAT

Country: Turkey



FBI Assessment (FOOTNOTE [REDACTED])

~~(FOUO//LES)~~ Threat Assessment Level [REDACTED]

~~(FOUO//LES)~~ There is no information that the detainee received any military training or is associated with the Taliban or al Qaida. Although the detainee has denied being a member of the Jama'at al-Tabligh, his associates, travel and religious studies contradict this denial. For these reasons, the detainee is believed to pose a [REDACTED] threat to the national security of the United States and its Allies if released.

~~(FOUO//LES)~~ Intel Assessment Level [REDACTED]



~~(FOUO//LES)~~ FBI Interest: The FBI has no investigative interest in the detainee.

CITF (FOOTNOTE [REDACTED])

~~(S//NF)~~ Threat Assessment Level [REDACTED]

~~(FOUO//LES)~~ Recommendation: CITF recommends [REDACTED]

USSOUTHCOM (FOOTNOTE [REDACTED])



JTF-GTMO (FOOTNOTE [REDACTED])

~~(S)~~ Threat Assessment Level [REDACTED]

~~SECRET // NOFORN // ORCON~~

700363

~~(S)~~ Intel Assessment

Level

~~(S)~~ Recommendation: JTF-GTMO recommends this detainee

ORDEC ARB 1 (FOOTNOTE 7)

Home State Information

N/A

Other Agency Information

FOOTNOTES

1. DASD-DA, 6/27/2006, (U) DoD Assessment
2. [REDACTED]
3. FBI, 5/31/2006, (U) Assessment
4. CITE, 5-18-2006, (U) Assessment
5. USSOUTHCOM, 5/25/2006, (U) Assessment
6. JTF GTMO, 5/19/2006, (U) Recommendation
7. (U) ARB 1
8. JIFSOUTH, 2/21/2002, (U) Knowledgeability Brief
9. FBI, 3/20/2002, (U) FD-302
10. FBI, 4/19/2003, (U) FD-302
11. [REDACTED]
12. FBI, 3/4/2003, (U) FD-302
13. JIFSOUTH, 3/17/2004, (U) [REDACTED]
14. FBI, 3/31/2003, (U) FD-302
15. Open Source, 2/14/2006, (U) Munich Focus in German
16. [REDACTED]
17. FBI, 6/18/2003, (U) FD-302

~~SECRET//NOFORN~~

INFO MEMO

I-06/004078--DA

MEMORANDUM FOR DESIGNATED CIVILIAN OFFICIAL,
OFFICE FOR THE ADMINISTRATIVE REVIEW OF THE
DETENTION OF ENEMY COMBATANTS AT U.S. NAVAL
BASE GUANTANAMO BAY, CUBA

FROM: ⁶Charles Stimson, Deputy Assistant Secretary of Defense for Detainee Affairs *jar 6/27/06*

SUBJECT: DoD assessments submitted to the Administrative Review Board (ARB) on the disposition of 8 Guantanamo Detainees - ARB-2-Cycle 23 (8)

~~(S)~~ In accordance with the ARB implementing directive (see paragraph 3, Tab A), DoD provides the following information and assessments regarding eight (8) detainees proposed for annual ARB proceedings. DoD's assessment of the detainees is summarized as follows: five (5) detainees are recommended for [REDACTED] and three (3) detainees are assessed as [REDACTED]

~~(S)~~ detainee [REDACTED] 061 (Tab B) [REDACTED]

~~SECRET//NOFORN~~

~~(S)~~ Deleted from:
Retention Review
Disposition On: [REDACTED]

DMO Exhibit 6
Page 1 of 4

700366



(S//NF) [redacted] The following five (5) detainees (Tabs B-F) are assessed as [redacted]

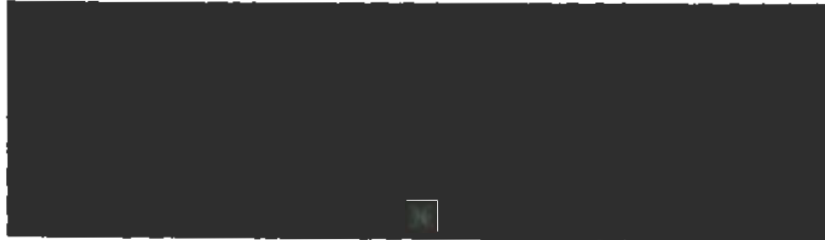
Turkey (1)

- [redacted] 061 [redacted] - Murat KURNAZ (Tab B)

- Assessed as [redacted] threat, [redacted] intelligence value.

- [redacted]

- [redacted]



~~SECRET//NOFORN~~

- o [REDACTED]

- [REDACTED]

- o [REDACTED]

- [REDACTED]

- o [REDACTED]

- o The detainee was transferred to GTMO on [REDACTED]
- o The detainee has been largely non-compliant and occasionally hostile to the guard force and staff.

~~SECRET//NOFORN~~

- o [REDACTED]
- o At this stage in the investigation, this detainee is [REDACTED] a Military Commission candidate.
- o On January 5, 2006, following the detainee's initial review, you approved [REDACTED] continued detention under DoD control.
- o OGC [REDACTED]
- o Joint Staff and Army [REDACTED]
 - [REDACTED]
 - [REDACTED]
- o [REDACTED] I recommend [REDACTED]

[REDACTED]

DMO Exhibit 7 redacted in full

700370-73



Memorandum

To :

Date

Department of Defense 05/31/2006
Office for the Administrative Review
of the Detention of Enemy Combatants
Frank Sweigart, Director

From : Federal Bureau of Investigation
Counterterrorism Division
[REDACTED]

Subject Administrative Review of Enemy Combatant
[REDACTED] 061 [REDACTED]

Administrative

In accordance with the Administrative Review Board assessment dated 08/24/2005, from the Federal Bureau of Investigation (FBI), Counterterrorism Division, to the Department of Defense (DOD), Office for the Administrative Review of the Detention of Enemy Combatants, MURAT KARNAZ, Internment Serial Number (ISN) [REDACTED] 061 [REDACTED], was assessed to pose a [REDACTED] threat to the national security of the United States and its allies.

The below summary is based solely on information derived from FBI investigations in response to a DoD request (Cycle 2, Round 23) dated 05/01/2006.

Investigative Summary

MURAT KARNAZ, ISN [REDACTED] 061 [REDACTED], is a Turkish national currently detained at the U.S. Naval Base, Guantanamo Bay, Cuba.

KARNAZ was born in Turkey but was raised in Germany. KARNAZ has denied membership in the Jama'at al-Tabligh (JT) but admitted to attending a JT mosque in Germany, associating with JT members, and traveling to Pakistan to study at a JT controlled mosque.

KARNAZ was never in the military and never received military training. While in Pakistan, KARNAZ stayed in guest houses in Karachi and Islamabad. KARNAZ was detained by Pakistani authorities and turned over to U.S. forces.

Intelligence Value

KARNAZ has [REDACTED] intelligence value regarding recruiting, personnel, and operations of the Jama'at al-Tabligh in Germany and Pakistan.

DMO Exhibit 8

PAGE 1 OF 2

Memorandum from FBI to DoD
Re: Administrative Review of Enemy Combatant, 05/31/2006

FBI Interest

A review of FBI records conducted to date leads to the conclusion the FBI has no investigative interest in this detainee, MURAT KARNAZ, ISN [REDACTED] 061 [REDACTED]

Threat Assessment

There is no information that KARNAZ received any military training or is associated with the Taliban or al-Qa'ida. Although he has denied being a member of the Jama'at al-Tabligh, his associates, travel and religious studies contradict this denial. For these reasons, KARNAZ is believed to pose a [REDACTED] [REDACTED] to the national security of the United States and its allies if released.



EMPT TO
ATTENTION OF

~~SECRET//NOFORN//NOFORN//MK~~

DEPARTMENT OF DEFENSE
CRIMINAL INVESTIGATION TASK FORCE
5015 21ST STREET
FORT BELVOIR, VIRGINIA 22060

CITF-CDR

MEMORANDUM THRU

MAY 18 2006

Commanding General, USACIDC, Fort Belvoir, Virginia 22060
Army General Counsel, Headquarters, Department of the Army, Pentagon 20301-0104

FOR General Counsel, Department of Defense (DoD), Pentagon 20301-1600

SUBJECT: (U) Recommendation for [redacted] of Detainee [redacted]
[redacted] Detainee Murat Kumaz, [redacted] 061 [redacted]

1. (U//FOUO//LES) Recommendation: On 12 May 2006, The Criminal Investigation Task Force (CITF) reviewed relevant documentation, evidence and intelligence information. The review revealed no new information. However, CITF still believes Murat Kumaz is of law enforcement value because he meets the criteria for jurisdiction under the Presidential Military Order (PMO) of 13 November 2001, and has committed a commissionable offense. I recommend [redacted]

2. (U) CITF believes:

a. (U//FOUO) Murat Kumaz meets the criteria for jurisdiction under the PMO. Murat Kumaz is not a U.S. citizen and it is in the interest of the United States to subject Murat Kumaz to the PMO. In addition, [redacted]

b. (U//FOUO) Furthermore, CITF's investigation indicates that Murat Kumaz has [redacted]

3. (U//FOUO) While the CITF believes [redacted] the determination as to whether to prosecute is the sole province of the Office of Military Commissions (OMC).

~~Derived From: [redacted]
DECL: X1; Date of Source: [redacted]~~

~~SECRET//NOFORN//NOFORN//MK~~

DMO Exhibit 9
Page 1 of 3

Thursday, May 18, 2006.mta

700376

~~SECRET//ORCON//NOFORN//MR~~

CITF-CDR

SUBJECT: (U) Recommendation for [REDACTED] Detainee [REDACTED]
[REDACTED] Murat Kumaz, [REDACTED] 0061 [REDACTED]

4. (S//OC/NF) Factual Summary:

[REDACTED]

5. (S//OC/NF) Third Assessment:

[REDACTED]

COL, MP
Commanding

~~Derived From: [REDACTED]
DEC [REDACTED]~~

~~SECRET//ORCON//NOFORN//MR~~

~~SECRET//NOFORN~~

CITF-CDR

SUBJECT: (U) Recommendation for ~~_____~~ Detainee ~~_____~~
~~_____~~ Detainee Murat Kumaz, ISN ~~_____~~ B1 ~~_____~~

BIBLIOGRAPHY PAGE

Classification of Document: ~~SECRET~~
Agency: ~~_____~~
Derived from: JTF GTMO Assessment
Date: ~~_____~~
Declassification Instructions: N/A

Classification of Document: ~~SECRET~~
Agency: ~~_____~~
Derived from: ~~_____~~
Date: ~~_____~~
Declassification Instructions: X1

Classification of Document: ~~SECRET~~
Agency: ~~_____~~
Derived from: FBI 302
Date: 20020517
Declassification Instructions: N/A

Classification of Document: ~~SECRET~~
Agency: ~~_____~~
Derived from: ~~_____~~
Date: ~~_____~~
Declassification Instructions: X1

Classification of Document: ~~SECRET~~
Agency: ~~_____~~
Derived from: ~~_____~~
Date: ~~_____~~
Declassification Instructions: X1

Derived From: ~~_____~~
DECL: X1 ~~_____~~

~~SECRET//NOFORN~~



~~SECRET//NOFORN~~ [REDACTED]

DEPARTMENT OF DEFENSE
UNITED STATES SOUTHERN COMMAND
3511 NW 91ST AVENUE
MIAMI, FLORIDA 33173-1217

EXACT COPY
ATTACHED TO

SCJ2

25 May 2006

MEMORANDUM THRU Chairman, Joint Chiefs of Staff, [REDACTED]
Washington, DC 20318-5000

FOR Secretary of Defense, [REDACTED] Washington, DC 20318-1000

SUBJECT: Administrative Review Board (ARB) Input for 8 Guantanamo Detainees (U)

1. ~~(S//NF)~~ I have reviewed the recommendations provided by JTF-GTMO on the following enclosed references and concur the following detainees should [REDACTED]

a. ~~(S//NF)~~ JTF-GTMO memorandum, 19 MAY 06, subject: ARB Input for Guantanamo Detainee, ISN [REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

f. [REDACTED]

2. [REDACTED]

a. [REDACTED]

b. [REDACTED]

~~SECRET//NOFORN~~ [REDACTED]

DNO Exhibit 10

1 of 2

~~SECRET//NOFORN~~ // [REDACTED]

SCJ2

SUBJECT: Administrative Review Board Input for 8 Guantanamo Detainees (U)

3. (U) My point of contact for this action is [REDACTED] DSN [REDACTED]

FOR THE COMMANDER:

[REDACTED]

Encis 8

[REDACTED]
Deputy Director of Intelligence

~~CLASSIFIED BY: [REDACTED]
DECLASSIFY ON: [REDACTED]~~

~~SECRET//NOFORN~~ [REDACTED]

2 of 2



~~SECRET//NOFORN//20310319~~

DEPARTMENT OF DEFENSE
JOINT TASK FORCE GUANTANAMO
GUANTANAMO BAY, CUBA
APO AE 09360



JTF GTMO-CC

19 May 2006

MEMORANDUM FOR Commander, United States Southern Command, 3511 NW 91st Avenue,
Miami, FL 33172.

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 0061 [REDACTED]

JTF GTMO Detainee Assessment

1. ~~(S//NF)~~ Personal Information:

- JDIMS/NDRC Reference Name: Murat Kurn
- Aliases and Current/True Name: Murat Karnaz, Mourad Kournaz
- Place of Birth: Bremen, Germany (GM)
- Date of Birth: 19 March 1982
- Citizenship: Turkey (TU)
- Internment Serial Number (ISN): [REDACTED] 0061 [REDACTED]



2. ~~(FOUO)~~ Health: Detainee is in good health.

3. ~~(S//NF)~~ JTF GTMO Assessment:

a. ~~(S)~~ Recommendation: JTF GTMO recommends this detainee for [REDACTED]
[REDACTED] JTF GTMO previously assessed detainee as [REDACTED]
[REDACTED] on 02 August 2005.

b. ~~(S//NF)~~ Executive Summary: Detainee is assessed [REDACTED]
[REDACTED]

¹ The JT is a Tier 2 NGO target, where NGO Tier 2 targets have demonstrated the intent and willingness to support terrorist organizations willing to attack US persons or interests.

~~CLASSIFIED BY: [REDACTED] MULTIPLE SOURCES
REASON: E.O. 13526 SECTION 1.5(C)
DECLASSIFY ON: [REDACTED]~~

~~SECRET//NOFORN//~~

DMO Exhibit 11
Page 1 of 9

700381

JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: US9[REDACTED]

[REDACTED]
[REDACTED] JTF GTMO determined this detainee to be:

- A [REDACTED] risk, as he is [REDACTED] to pose a threat to the US, its interests and allies.
- A [REDACTED] threat from a detention perspective.
- Of [REDACTED] intelligence value.

4. (S//NF) Detainee's Account of Events:

The following section is based, unless otherwise indicated, on detainee's own account. These statements are included without consideration of veracity, accuracy, or reliability.

(S//NF) **Prior History:** Detainee was born and raised in Germany, but claims Turkish citizenship. From 1999-2001, he worked as an apprentice to a ship mechanic in Bremen, Germany (GM).² Detainee attended three Mosques while in Germany: the Quba Mosque; the Abu Baker (variant Abu Baker/Bakr) Mosque; and the Fahti Mosque.³

a. (S//NF) **Recruitment and Travel:** Detainee attended the Quba Mosque, in Bremen, GM, [REDACTED] who preached there. In the summer of 2001, detainee decided to travel to Pakistan to learn Arabic and increase his knowledge of Islam.⁴ On 3 October 2001, detainee and his associate [REDACTED] attempted to travel to Pakistan, but German authorities detained [REDACTED] at the Frankfurt, GM, airport concerning various unpaid legal fees. Detainee continued traveling alone to Pakistan.⁵

b. (S//NF) **Training and Activities:** Detainee arrived in Pakistan and stayed at a series of JT affiliated guesthouses and mosques before settling in Peshawar, PK, to teach the Koran.⁶

3
1
4
[REDACTED]
3
6



5. ~~(S/AF)~~ Capture Information:

a. ~~(S/AF)~~



b. ~~(S)~~ Property Held:



JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 061 [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

c. (S) Transferred to JTF GTMO: [REDACTED]

d. ~~(S//NF)~~ Reasons for Transfer to JTF GTMO: [REDACTED]

- [REDACTED]
- [REDACTED]

6. ~~(S//NF)~~ Evaluation Of Detainee's Account: [REDACTED]

7. ~~(S//NF)~~ Detainee Threat:

a. ~~(S)~~ Assessment: It is assessed the detainee poses a [REDACTED] risk, as he is [REDACTED] pose a threat to the US, its interests and allies.

b. ~~(S//NF)~~ Reasons for Continued Detention: [REDACTED]

[REDACTED]

[REDACTED]

JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 06 [REDACTED]

[REDACTED]

o [REDACTED]

[REDACTED]

• (b) [REDACTED]

[REDACTED]

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
2 [REDACTED]
1 [REDACTED]

[REDACTED]

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JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 0061 [REDACTED]

[REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

~~SECRET//NOFORN//~~

JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 0061 [REDACTED]

[REDACTED]

- o [REDACTED]
- o [REDACTED]
- o [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

JTF GTMO-CC

SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] (0061)

[REDACTED]

c. ~~(S//NF)~~ Detainee's Conduct:

[REDACTED]

B. ~~(S//NF)~~ Detainee Intelligence Value Assessment:

a. ~~(S)~~ Assessment: JTF GTMO determined this detainee is of [REDACTED] intelligence value. [REDACTED]

b. ~~(S//NF)~~ Placement and Access:

[REDACTED]

c. ~~(S//NF)~~ Intelligence Assessment:

[REDACTED]

20 [REDACTED]

JTF GTMO-CC

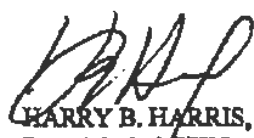
SUBJECT: Recommendation for [REDACTED] for
Guantanamo Detainee, ISN: [REDACTED] 061 [REDACTED]

facilitation activities in Germany. He should be able to provide information about
facilitation, training and safe houses in Pakistan.

d. (S//NF) Areas of Potential Exploitation:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

9. (S) EC Status: Detainee's enemy combatant status was reassessed on 30 September 2004,
and he remains an enemy combatant.


HARRY B. HARRIS, JR.
Rear Admiral USN
Commanding

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██████████

██████████

THE ORIGINAL AND AN ELECTRONIC VERSION OF THE ARB
RECORD OF PROCEEDINGS FOR ISN 061's FIRST ARB PROCEEDING
IS MAINTAINED AT OARDEC HQ IN ARLINGTON, VIRGINIA.

AN ELECTRONIC VERSION OF THIS RECORD IS ALSO MAINTAINED
AT OARDEC FORWARD AT U.S. NAVAL BASE GUANTANAMO BAY,
CUBA.

DMO Exhibit 12
Page 1 of 2

~~SECRET//NOFORN~~

DMO Exhibit 12
(Duplicate of 700095)

700391

DMO Exhibit 14
Duplicate of 700032-033

700184-185

~~FOUO//LES~~

FEDERAL BUREAU OF INVESTIGATION

Date of

Transcription

Investigation on
File #
by

at

Date dictated

Your agency:

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04/19/2003

On April 15, 2003, MURAT KURNAZ, Internment Serial Number (ISN) US9TY-00061DP, was interviewed at Camp Delta, U.S. Naval Base, Guantanamo Bay, Cuba, by [REDACTED]

KURNAZ advised that he traveled via a local train from Bremen, Germany, to the meeting held by the Jamaat Tabligh (JT). KURNAZ stated the trip took approximately fifteen to thirty minutes as the train made several stops along the way. KURNAZ stated the meeting was not held in Hamburg, Germany. KURNAZ stated he could not recall the name of the city where the meeting was held, but felt that if he could see a map, he could identify it.

KURNAZ advised that the meeting was held in what appeared to be a modern house, with one big room, one small room, and a kitchen. KURNAZ believed the big room could hold as many as one hundred people. KURNAZ stated he could see a river, not further identified, from the back side of the house. KURNAZ stated he believed a member of the JT had the keys to the building, and opened the building for the individuals from Bremen. KURNAZ advised that approximately ten to twelve individuals attended the meeting, some of which traveled by train as he had, and some by car. KURNAZ advised that he stayed for approximately one and a half days at the meeting which he described as more of a religious retreat, as the participants spent time cooking, eating, praying, and talking about Islam. During the night, the participants slept on the floor of the big room. KURNAZ did not believe that the Imam from his mosque in Bremen, attended this meeting.

KURNAZ denied that the JT discussed recruitment for fighting while he was at the meeting. KURNAZ denied ever having received any weapons training when he traveled to Pakistan, and also denied ever having a weapon there. KURNAZ advised the only gun he ever owned, was in Germany, and that it did not shoot projectiles, but instead shot fireworks.

04/15/2003 Guantanamo Bay, Cuba

[REDACTED]

0104/19/2003 700186

~~FOUO//LES~~

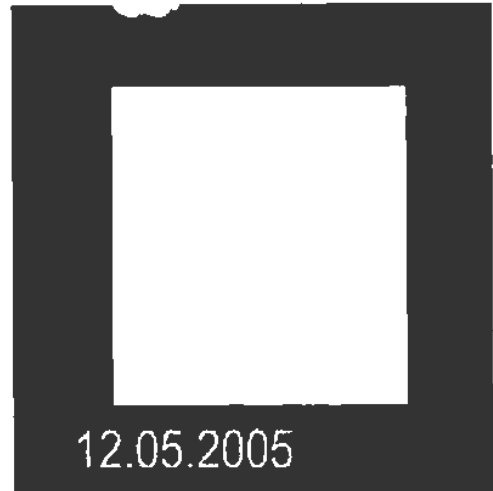
DMO Exhibit 15
Page 1 of 1

DMO Exhibit 16
Duplicate of 700081-082

700187-187A

DMO Exhibit 17 redacted in full

CURRENT AS OF DATE: (S//NF) 10/30/2005
ISN: (S//NF) [REDACTED] 061 [REDACTED]
GTMO ID: [REDACTED]
MP ID: [REDACTED]
REFERENCE NAME: (S//NF) KUNN, MURAT
CURRENT NAME: (S//NF) KARNAZ, MURAT
LANGUAGES: English ([REDACTED])
 German ([REDACTED])
 Turkish ([REDACTED])
CITIZENSHIP: (S//NF) Turkey
ETHNICITY: No Ethnicity Listed
POB/DOB: (S//NF) 3/19/1982
 Bremen Germany No Province
CURRENT CELL: [REDACTED]
ANALYST: [REDACTED]
INTERROGATOR: [REDACTED]
LAST INTERVIEW: [REDACTED]
ADMINISTERED
POLYGRAPH: [REDACTED]
POLYGRAPH DATE: [REDACTED]



Aliases

CLASS	NAME	SOURCE
S//NF	KARNAZ, MURAT (Variant)	[REDACTED]
S//NF	KUNN, MURAT (Alias)	[REDACTED]
S//NF	KURNAZ, MURAT (Variant)	[REDACTED]

DETAINEE HIGHLIGHTS

Age: 23
Date of Birth: 3/19/1982
POB/DOB: Bremen Germany No Province
Capture Event: [REDACTED]

Background: (2005Oct25)ISN-061 is a 23-year old male who claims Turkish citizenship. He speaks relatively good English, although sometimes his speech is garbled. [REDACTED]

[REDACTED]

History:

DETAINEE SUMMARY

None Listed

THREAT ASSESSMENT

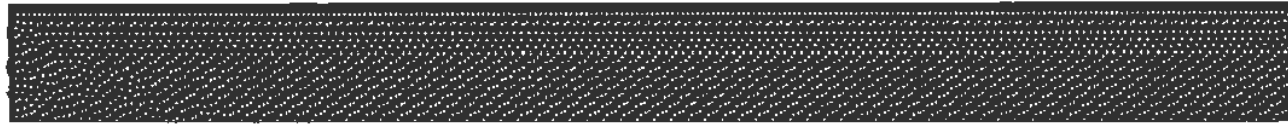
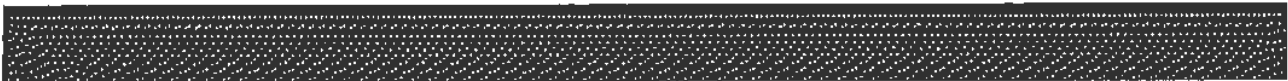
ISN-061 was assessed on 02 Aug 2005 as

RECOMMENDATION FOR RELEASE

Recommendation:

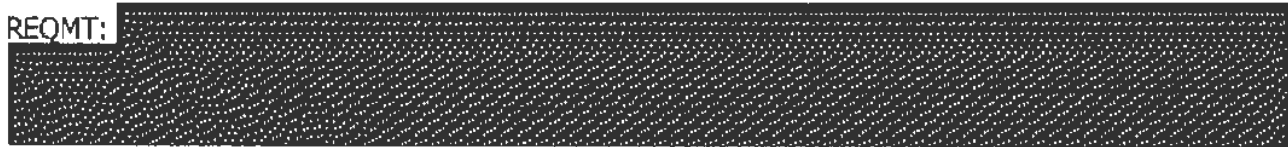
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ANALYST and INTERROGATOR INTELLIGENCE FOCUS

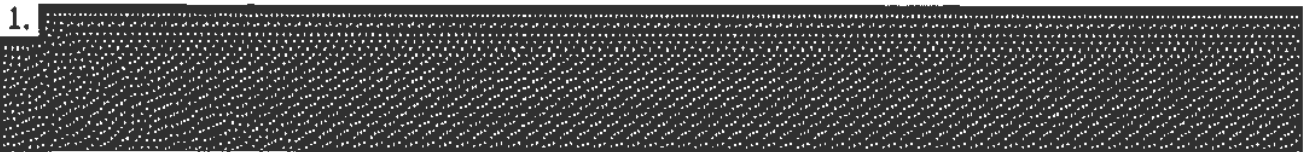


INTEL GAPS:

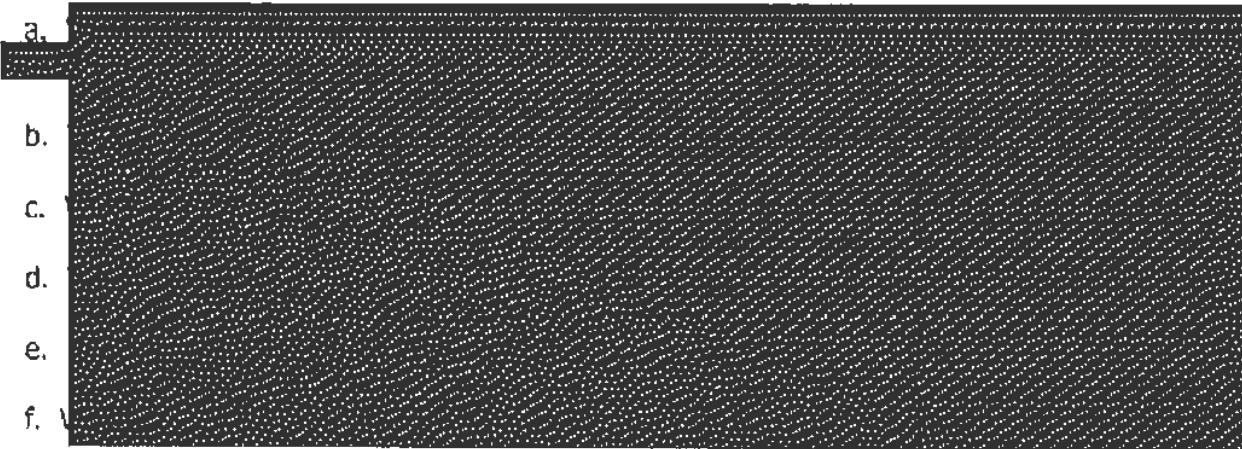
REQMT:



1.



a.



b.

c.

d.

e.

f.

INTREP ACTIVITY

CLASS	DATE/TIME	CATEGORY	EVENT
S//NF	11:52:00 AM	Fasting	ISN#000061.
S//NF	4:47:00 AM	Refused Meal	ISN#000061.
S//NF	11:57:00 AM	Fasting	ISN#000061.
S//NF	11:12:00 AM	Fasting	ISN#000061.
S//NF	1:21:00 PM	Fasting	ISN#000061.
S//NF	1:08:00 PM	Fasting	ISN#000061.
S//NF	1:22:00 PM	Fasting	ISN#000061.
S//NF	12:24:00 PM	Fasting	ISN#000061.
S//NF	1:05:00 PM	Fasting	ISN#000061.

S//NF	(b)(2)	(b)(2)	Detainee Note	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A	
S//NF			Fasting	ISN#000061. (b)(1) Sec 1.4 A	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Fasting	ISN#000061.	FASTING
S//NF			Refused Meal	ISN#000061. BREAKFAST	REFUSED
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A TO (b)(1)	PERM MOVE
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A	Refused breakfast:
S//NF			Refused Meal	ISN#000061. lunch.	Detainee did not eat
S//NF			Refused Meal	ISN#000061.	Did not eat breakfast
S//NF			Refused Meal	ISN#000061.	REFUSED MEAL.
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A MEDICINES.	REFUSED
S//NF			Failure to Compy	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A	
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE REFUSED LUNCH.
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A	Refused to eat.
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE REFUSED LUNCH.
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A (b)(1) there wasn't enough Mayonnaise for the hunger strikers In (b)(1) Sec 1.4 A	Detainee told (b)(1) Sec
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	MORE INTERACTIVE WITH BLOCK NCO THAN USUAL.
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE DID NOT EAT BREAKFAST
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE DID NOT EAT BREAKFAST DUE TO BEING ON THE FASTING LIST.
S//NF			Failure to Compy	ISN#000061. (b)(1) Sec 1.4 A DETAINEE WOULD NOT GO BACK INTO BAY WHEN TOLD TO DO SO BY NCO. DETAINEE DID NOT GO BACK IN UNTIL (b)(2). ARRIVED	

700194

S//NF	(b)(2)	(b)(2)	Failure to Comply	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A WHEN HE WAS GIVEN DIRECTIONS TO VACATE (b)(1) Sec HE DID NOT COMPLY. AFTER REPEATED COMMANDS FROM THE (b)(1) Sec 1.4 A HE THEN RESPONDED TO COMMANDS GIVEN TO HIM.
S//NF			Other	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 A, (b)(2), (b)(3); 10 USC §130b, (b)(6)
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A DETAINEE ISN#000061 PUSHED THE DOOR OPENED AND CAME OUT, WHEN ASKED TO GO BACK INTO HIS BAY, DETAINEE WOULD NOT ACKNOWLEDGE MP.
S//NF			Failure to Comply	ISN#000061. (b)(1) Sec 1.4 A DET. WAS TOLD TO GET IN HIS ASSIGNED BAY AT (b)(1) Sec 1.4 A WENT INSIDE AT (b)(1)
S//NF			Teaching/Preaching	ISN#000061. (b)(1) Sec 1.4 A DETAINEE PREACHING AFTER PRAYER
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A (b)(2), (b)(3); 10 USC §130b, (b)(6), (b)(1) Sec 1.4 A
S//NF			Other	ISN#000061. (b)(1) Sec 1.4 A DETAINEE REFUSED WATER BOTTLE. (b)(2), (b)(3); 10 USC §130b, (b)(6)
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A EARLY MORNING MED PASS
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A REFUSED LUNCH MEAL. ISN#000061 ATE FOOD THAT HABEAS BROUGHT.
S//NF			Refused Meal	ISN#000061. (b)(1) Sec 1.4 A REFUSED MORNING MEAL.
S//NF			Refused Shower	ISN#000061. (b)(1) Sec 1.4 A

S//NF	(b)(2)	(b)(2)	Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MORNING MEDS
S//NF			Detainee Note	ISN#000061.	REFUSED MEDS
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	CAME ON THE BLOCK TO ESCORT (b)(1) TO MEDICAL. HE REFUSED TO GO STATING HE DOES NOT NEED TO SEE THE DOCTOR FOR MOTRIN AND BENADRYL
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MEDICATION FROM MED4. (b)(2),(b)(3):10 USC
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MORNING MEDS
S//NF			Refused Medicines	ISN#000061.	
S//NF			Refused Medicines	ISN#000061.	MORNING MED PASS
S//NF			Refused Medicines	ISN#000061.	DETAINEE REFUSED MEDS.
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MEDICATION. WITNESSED BY (b)(2),(b)(3):10 USC BY (b)(2),(b)(3):10 USC
S//NF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A	
S//NF			Refused Medicines	ISN#000061.	
S//NF			Other	ISN#000061. (b)(2)	DETAINEE WAS TALKING TO (b)(2) ABOUT THE WEATHER (b)(2),(b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 C
S//NF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A	(b)(2),(b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 C
S//NF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A	LEADING PRAYER. WITNESSED AND ENTERED BY (b)(2),(b)(3):10 USC §130b,(b)(6)
S//NF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A	DETAINEE LEADING PRAYER. OBSERVED AND ENTERED BY (b)(2),(b)(3):10 USC §130b,(b)(6)
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MEDICATION (b)(2),(b)(3):10 USC §130b,(b)(6)
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	READING POSTERS IN REC YARD
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	(b)(2),(b)(3):10 USC §130b,(b)(6),(b)(1) Sec 1.4 C
S//NF			Detainee Note	ISN#000061. (b)(1) Sec 1.4 A	WHILE IN THE REC YARD DETAINEE WAS READING THE REC YARD POSTERS AND DISCUSSING THEM WITH (b)(2),(b)(6)
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED MEDS
S//NF			Refused Medicines	ISN#000061.	REFUSED MEDS
S//NF			Refused Shower	ISN#000061.	REFUSED SHOWER BUT WENT TO REC YARD

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S//NF	(b)(2)	(b)(2)	Other	ISN#000061. (b)(1) Sec 1.4 A REC. (b)(1) Sec 1.4 A	DETAINEE REFUSED
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	
S//NF			Refused Medicines	ISN#000061.	REFUSED AM MEDS.
S//NF			Leading Prayer/PT	ISN#000061. 000061 LEADING PRAYER	DETAINEE ISN#
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A 000061 REFUSED MEDICATION	DETAINEE ISN#
S//NF			Leading Prayer/PT	ISN#000061. (b)(1) Sec 1.4 A PRAYER. OBSERVED AND ENTERED BY (b)(2),(b)(3);10	LEADING
S//NF			Failure to Compy	ISN#000061. (b)(1) Sec 1.4 A DETAINEE (b)(1) (ISN#000061) TO STOP WALKING SO THAT THE OTHER MP COULD GET A HOLD ONTO THE DETAINEES RESTRAINS DETAINEE (b)(1) CONTINUED TO WALK AND PULL THE MP ARM WHO WAS HOLDING ONTO THE DETAINEES RESTRAINTS THROUGH THE BEANHOLE, THEN DETAINEE PROCEED TO CALL THE MP STUPID AND TOLD THE MP THAT HE DID NOT KNOW HOW TO DO HIS JOB. REPORTED BY (b)(2),(b)(3);10 USC	WHEN MP TOLD
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A	REFUSED SHAMPOO, STATED THAT IT WAS NOT ENOUGH
S//NF			Other	ISN#000061. (b)(1) Sec 1.4 A	reading poster in rec area.
S//NF			Other	ISN#000061. (b)(1) Sec 1.4 A (b)(1) Sec 1.4 C	
S//NF			Harassing Guard	ISN#000061. (b)(1) Sec 1.4 A	CALLED BLOCK NCO STUPID MP
S//NF			Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A (b)(2),(b)(3);10	REFUSED ONE OF THE TWO MEDICATION PRESCRIBED. DETAINEE STATED TO (b)(2),(b)(3) THAT ITS NOT WORKING. (b)(2);10

~~SECRET // NOFORN~~

S//NF	(b)(2)	(b)(2) Other	ISN#000061. (b)(1) Sec 1.4 A TOLD BLOCK MP THAT HE WAS KIND OF FAMOUS IN GERMANY BECAUSE THERE WAS A MADE FOR TV LIFE STORY MADE ABOUT HIS SUCCESS IN TAI KWAN DO. HE DID NOT TELL ME THE NAME OF THE MOVIE BECAUSE IT HAS HIS REAL NAME IN THE TITLE. HE SAYS HIS NAME HERE (MURAT KURNAZ) IS NOT HIS REAL NAME. HE SAID THAT HIS INTERAGATOR HAS BEEN TRYING TO FIND HIS NAME OUT FOR TWO YEARS BUT HE DOES NOT WANT TO TELL HIM BECAUSE THEY WILL GO AND TALK TO ALL HIS FRIENDS IN GERMANY. HE ALSO SAID THAT HE HAS A BIG HOUSE IN TURKEY AND LIKES TO FARM AND RAISE ANIMALS. ALSO ASKED ABOUT NEW STREET BIKES THAT WERE OUT AND IF I RODE MOTORCYLES. HE ALSO STATED THAT HE LIKES AMERICA BETTER THAN GERMANY BECAUSE THERE IS MORE OPEN SPACE. (b)(1) SAID THAT HE USED TO PLAY THE GUITAR AND KEYBOARD AND HAD A BAND IN GERMANY BUT AS SOON AS HE STARTED PRAYING HE STOPPED BECAUSE IT IS AGAINST HIS RELIGION TO LISTEN TO AND PLAY MUSIC. (b)(2)(b)(2)(b)(2)(b)(2)
S//NF		Failure to Compy	ISN#000061. (b)(1) Sec 1.4 A DETAINEE REFUSED TO GIVE TRAY BACK WHEN ASKED SEVERAL TIMES. TOLD MP TO SHUT UP AND GO AWAY. GAVE TRAY BACK 20 MINUTES AFTER HE WAS ASKED TO GIVE IT UP THE FIRST TIME
S//NF		Refused Medicines	ISN#000061. (b)(1) Sec 1.4 A REFUSED MEDS
S//NF		Refused Shower	ISN#000061. REFUSED SHOWER ONLY
S//NF		Detainee Note	ISN#000061. (b)(1) Sec 1.4 C (b)(2),(b)(3): 10 USC §1305,(b)(6),(b)(1) Sec 1.4 C
S//NF		Other	ISN#000061. (b)(1) Sec 1.4 A TOLD GUARD THAT THE WHOLE CAMP DOSE NOT LIKE (b)(2) (b)(2),(b)(6) AND WHAT HAPPENED YESTERDAY (b)(2) FECES THROWING WAS NOT FOR GUARDS AND THAT HE IS SORRY IT HAPPENED , BUT IT WILL CONTINUE TO HAPPEN NO MATTER WHAT (b)(2),(b)(6),(b)(1) Sec 1.4 C
S//NF		Other	(b)(2) KEEPS ASKING THE MPS WHAT THEIR NAMES ARE

S//NF	(b)(2)	Verbal Commc - Same /Cross Block	TALKING WITH (b)(2) [REDACTED] THOUGH IT STATES (b)(2) [REDACTED] ONLY KNOWS ENGLISH AND GERMAN AND (b)(2) [REDACTED] KNOWS RUSSIAN. IT SOUNDED TO ME LIKE THEY WERE SPEAKING SIMPLE GERMAN WHEN WE WERE SEARCHING FOR THE MISSING BOX PIECES BECAUSE (b)(2) [REDACTED] KEPT SAYING WHAT SOUNDED LIKE "SHAU MAL" AND THEN (b)(2) [REDACTED] WOULD LOOK FOR HIM AND THINGS LIKE WHAT'S HE DOING IN GERMAN AS WELL (b)(3) 10 USC 6170b, (b)(6)
S//NF		Failure to Comply	DETAINEE HAD SHEET TIED AT THE TOP OF CELL DOING PULL UPS. HE WAS TOLD TO TAKE THE SHEET DOWN, HE REFUSED TO COMPLY IMMEDIATELY, SAID HE WOULD TAKE IT DOWN IN 10MN.
S//NF		Other	DETAINEE LOOKED AT POSTER BOARD IN THE LEFT SIDE RECREATION YARD WITH (b)(2) [REDACTED] AND MADE A COMMENT IN A LOW TONE AS TO A WHISPER.
S//NF		Showing Reverance to Another Detainee	WANTED SOG TO MOVE HIS BUDDY FROM (b)(2) [REDACTED] BECAUSE HE SPEAKS A LANGUAGE SIMILAR TO HIS (GERMAN/TURKISH).
S//NF		Other	DETAINEE WANTS TO BE PUT NEXT TO (b)(2) [REDACTED] BECAUSE HE SPEAKS THE SAME LANGUAGE.
S//NF		Extreme Emotion	DETAINEE IN (b)(2) [REDACTED] PLUGGED HIS EARS WITH HIS FINGERS WHEN THE NATIONAL ANTHEM WAS PLAYING.
S//NF		(b)(2) Refused Medicines	
S//NF		Other	WAS EXTREMELY HELPFUL TO (b)(2) [REDACTED]
S//NF		(b)(2) Refused Shower	REFUSED REC TIME
S//NF		Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	TALKING WITH (b)(2) [REDACTED]
S//NF		(b)(2) Refused Medicines	DIDN'T WANT THEM
S//NF		(b)(2) Refused Shower	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Teaching/Preaching	TEACHING TO BLOCK FROM HIS LIBRARY BOOK
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS DURING MORNING MED PASS
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Other	(b)(1) Sec 1 4 C

S//NF	(b)(2)	Other	ASKING ABOUT THE CHILD THAT WAS FOUND IN THE WATERS NINE DAYS AFTER THE TUSNAMI; SPECIFIC QUESTION WAS HOW OLD WAS THE CHILD.
S//NF		(b)(2) Refused Medicines	REFUSED MED'S.
S//NF		(b)(2) Refused Medicines	REFUSED MED'S.
S//NF		er	ASKED FOR EXTRA FOOD
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Refused Medicines	MIDS
S//NF		Refused Medicines	
S//NF		Other	HAD CONVERSATION WITH THE BLOCK NCO, CONCERNING HIS PAST HISTORY IN GERMANY, BORN AND RAISED, ASKED FAIRNESS FOR BEING DETAINED
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	REFUSED MED PASS
S//NF		(b)(2) Refused Medicines	DETAINEE IN CELL (b)(2) REFUSED MEDICAL TREATMENT FROM MED S.
S//NF		Other	READ POSTER ON LEFT SIDE OF REC YARD FOR 5 MINUTES.
S//NF		Teaching/Preaching	TEACHING (b)(2) ON HOW TO STRETCH IN THE REC YARD.
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	REFUSED MEDS
S//NF		Showing Reverance to Another Detainee	WANTED MP TO GIVE HIS MAGIZINES TO DETAINEE IN CELL (b)(2) TO LOOK AT WAS DENYED
S//NF		PT in Cell	DETAINEE IS SHOWING OFF HIS ABILITY TO DO "50 PUSHUPS ON [HIS] FINGERTIPS IN 60 SECONDS"
S//NF		(b)(2) Refused Medicines	REFUSED THREE OF HIS MEDS
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DETAINEE ASKING IF HE CAN DO PUSH UP WITH ONE OF THE MP'S, AND SAYING THAT IF HE DOES MORE THEN MP GUARD HE GET MORE FOOD DURING LUNCH.
S//NF		(b)(2) Refused Medicines	DETAINEE REFUSE MEDS
S//NF		(b)(2) Refused Medicines	REFUSED (b)(2) MEDICATION PASS
S//NF		Other	REFUSED MEDS IE FLONASE AND ZANTAC
S//NF		Failure to Compy	AFTER BEING TOLD TO COME OUT OF SHOWER HE REFUSED TO GET SHACKLED. HE WAS TOLD MANY TIMES TO COME OUT OF THE SHOWER AND YET STILL REFUSED. TOTAL TIME ELAPSED IN SHOWER WAS 33MIN.
S//NF		Other	DETAINEE WAS ASKING ABOUT WHO WON THIS YEARS ELECTIONS
S//NF		(b)(2) Refused Medicines	REFUSED (b)(2) MEDS
S//NF		(b)(2) Refused Medicines	

S//NF	(b)(2)	(b)(2) Refused Medicines	
S//NF		Other	NOT PRAYING WITH OTHERS
S//NF		(b)(2) Refused Shower	
S//NF		(b)(2) Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	SPEAKS ENGLISH VERY WELL
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Shower	
S//NF		Refused Shower	
S//NF		Refused Medicines	
S//NF		Refused Meal	
S//NF		Other	THE DETAINEE REFUSED TO COME OUT FOR HIS REC TIME. HE DID SUBMIT TO A CELL SEARCH,
S//NF		(b)(2) Refused Shower	
S//NF		Other	DETAINEE WAS TELLING MP ABOUT WHY CERTAIN WAYS IN THE MUSLIM RELIGION ARE THE WAY THEY ARE.
S//NF		(b)(2) Refused Medicines	
S//NF		Other	REQUESTED LINED PAPER TO WRITE TO LAWYER
S//NF		(b)(2) Refused Shower	(b)(2) REFUSED REC
S//NF		(b)(2) Refused Shower	
S//NF		Refused Medicines	
S//NF		Other	DETAINEE STATES THAT HE IS ILL AND WISHES TO BECOME A NON FASTER. MEDICAL HAS BEEN CONTACTED AND WILL SEE THE DETAINEE AT THE NEXT MED PASS AND WILL MAKE THE DETERMINATION AS TO HOW TO PROCEED.
S//NF		(b)(2) Refused Shower	
S//NF		(b)(2) Refused Medicines	
S//NF		Harassing Guard	CONTINUES TO ASK FOR DOC OR A PHONE TO TALK TO DOC ABOUT HIM GETTING PUNISHMENT FOR HANGING HIS BLANKET ABOVE THE HALF WAY POINT OF HIS CELL. HE WAS TOLD TWICE TO LOWER HIS BLANKET AND HE REFUSED, BOTH THE (b)(2) KNOW OF HIS SITUATION AND DONT WANT TO SPEAK WITH HIM ABOUT IT. THE (b)(2) HAS ALSO SPOKE WITH HIM AND CONCLUDED THE SAME.
S//NF		(b)(2) Refused Shower	
S//NF		Refused Shower	
S//NF		Refused Shower	DETAINEE ISN 000061 REFUSED SHOWER AND REC
S//NF	Other	COMPLAINS OF KIDNEY PAIN WHILE EATING	
S//NF	(b)(2) Refused Medicines	REFUSED TB TEST	
S//NF	(b)(2) Refused Medicines		
S//NF	Refused Medicines		
S//NF	Refused Shower		
S//NF	Other	REFUSAL TO GIVE WIEGHT FOR MEDICAL	
S//NF	(b)(2) Refused Medicines	MID-MORNING MEDS	

S//NF	(b)(2)	Other	G10 ISN 061 REQUESTED TO GIVE HIS PRAYER CAP TO (b)(2) HAS BEN WAITING FOR THE CHAPLEN TO BRING ONE BUT HAS NOT RECEAVED IT YET. THE ONE (b)(2) HAS IS TOO SMALL FOR HIM AND HE WILL WAIT FOR A LARGER ONE. SO THE (b)(2) GAVE THE CAP TO (b)(2)
S//NF		Leading Prayer/PT	DETAINEE (b)(2) LEADING AND CALLING OUT TO PRAYER.
S//NF		Harassing Guard	CALLED DETAINEE MAIL CLERK A ASSHOLE.
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	REFUSED TO BE WEIGHED FOR MONTHLY WEIGH-INS
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	REFUSED MEDS BECAUSE HE IS FASTING TODAY.
S//NF		Other	WHILE SEARCHING CELL FOUND A PIECE OF PAPER THAT HAS, MALARIA, NILE VIRUS, AND HEPATTTIS WRITTEN ON IT.. WITH SOME OTHER LANGUAGE UNDERNEATH EACH TOPIC
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DETAINEE HAS BEEN PACEING IN HIS CELL FOR THE LAST 3HRS
S//NF		PT in Cell	PRACTICING MARTIAL ARTS, PUNCHING HIS GREEN MAT
S//NF		Extreme Emotion	DETAINEE DID NOT WANT HIS STORM DDORS CLOSED DURING A RAINSTORM.
S//NF		Other	SEEN BY CORPSMAN.
S//NF		Fasting	DETAINEE IS FASTING FOR (b)(2)
S//NF		Teaching/Preaching	TEACHING (b)(2) SOME ENGLISH
S//NF		(b)(2) Refused Medicines	REASON FOR REFUSAL WAS, IT UPSETS HIS STOMACH.
S//NF		Fasting	ASKING TO PASS HIS FOOD OFF TO FASTER5
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DETAINEE RECIEVED TORN T-SHIRT DO NOT WRITE HIM UP FOR DESTRUCTION OF GOVERNMENT PROPERTY
S//NF		Other	DETAINEE WANTS TO SEE HIS REPRESENTATIVE PER (b)(2) INSTRUCTION
S//NF		Other	DETAINEE NOTIFIED OF HIS RIGHTS BY (b)(3): (b)(2), (b)(3); 10 USC §1305 (b)(6)
S//NF		Other	(b)(2), (b)(3); 10 USC §1305 (b)(6)
S//NF		Other	DETAINEE FLUSHED HIS SOAP WHEN TOLD HE WAS ON CI LOSS
S//NF		Verbal Commo - Same /Cross Block	CROSSBLOCK TO (b)(2)
S//NF		Other	DETAINEE 061 ASKING FOR ESCORT TEAMS FULL REAL NAMES.

S//NF	(b)(2)	Other	DETAINEE WAS OBSERVED WITH A STRING FROM UNKNOWN ORIGIN USED TO HOLD UP HIS HAIR. NO FUTHER ASSISTANCE WAS NEEDED.
S//NF		Fasting	
S//NF		VIP Visits	CHAPLAINS ASSISTANT SEEN AND PRESENTED PRAYER BEADS TO DETAINEE.
S//NF		Other	ISSUED LIBRARY BOOK
S//NF		PT in Cell	RUNNING IN CELL/PUSHUPS
S//NF		Verbal Commo - Same /Cross Block	(b)(2) HAS BEEN TALKING TO (b)(2) SINCE (b)(2) HRS. (b)(1) Sec 1.4 C.(b)(2)
S//NF		Other	ON OR ABOUT 2145 AS (b)(3): 10 USC 8130b (b)(6) WAS WALKING THE BLOCK (b)(2) #51 WANTED TO TALK TO ME AND AS WE WERE SPEAKING HE ASKED ME ABOUT CAMP 5 I SAID I DID NOT KNOW WHAT HE WAS TALKING ABOUT. HE THEN TOLD ME ALL ABOUT THE CAMP IE WHAT THE WALLS WERE MADE OF AND THE SIZE OF THE CELLS AND THAT IT IS AIR CONDITONED. I ASKED HIM WHERE HE GOT HIS INFO AND HE SAID AN MP TOLD HIM ALL ABOUT CAMPS. HE ALSO (b)(1) Sec 1.4 C
S//NF		Passing notes	PAPER WITH WRITING ON IT WAS FOUND IN DETAINEES PLATE
S//NF		VIP Visits	MEDICAL
S//NF		VIP Visits	CORPSMAN ON MED PASS
S//NF		Other	RECEIVED BOOK
S//NF		PT in Cell	
S//NF		PT in Cell	
S//NF		Other	DETAINEE WAS REQUESTING NEW TRAINING BLOCK NCO TO GIVE HIM HIS NAME
S//NF		Other	TOLD ME THAT THE BREAKFAST THIS MORNING WAS VERY GOOD
S//NF		VIP Visits	MEDIC: MEDS
S//NF		(b)(1) Refused Medicines	
S//NF		Other	DETAINEE ASKED BLOCK GUARD SWEEPING WHY ARE YOU DOING THAT WHY ISNT A SPECIALIST DOING THAT DETAINEE STATED YOU ARE A (b)(2) YOU DO NOT SWEEP DETAINEE THEN ASKED IF EVERYONE WORKING WAS (b)(2)
S//NF		Other	DUREING SHIFT CHANGE A PERIMETER SWEEP WAS MADE OF THE BLOCK EXTERIER PIECES OF AN APPLE WERE DISCOVERED OUTSIDE DETAINEE ISN 000061
S//NF		Verbal Commo - Same /Cross Block	TO SOMEONE IN (b)(2)
S//NF		VIP Visits	CORPSMAN ON MED PASS.
S//NF		Other	(b)(1) Sec 1.4 C
S//NF		Other	WAS GIVEN A BOOK (b)(2)

S//NF	(b)(2)	PT in Cell	
S//NF		Other	REQUESTED TO SPEAK TO (b)(2)
S//NF		PT in Cell	
S//NF		VIP Visits	DETAINEE LOCATED IN (b)(2) RECEIVED A MAGAZINE
S//NF		Requests JIIF	WANTS TO GO TO RESERVATION. REQUESTED A SPECIFIC INTERROGATOR (b)(2) (b)(2)
S//NF		Other	RECEIVED BOOK FROM LIBRARIAN
S//NF		Other	WHEN THE MPS INFORMED THE DETAINEE THAT HE WAS GOING TO REC HE QUICKLY COVERED HIMSELF TO USE THE LATRINE AND REMOVED HIS PANTS AND GOT THEM WET. HE REQUESTED THAT HE GO TO SHOWER AND REC WITH ONLY HIS SHORTS AND HIS SHEET. THE DETAINEE STATED THAT HE DID NOT WANT TO GO WITH WET PANTS. THE SOP WAS FOLLOWED AND THE DETAINEE DID NOT GO TO SHOWER AND REC.
S//NF		PT in Cell	
S//NF		Other	(b)(2)
S//NF		Other	WHILE MEDICAL WAS ON THE BLOCK FOR MED PASS (b)(2) REQUESTED THE NAME OF A BOOK FROM THE CORPSMAN. THE "U.S. PHARMACOPIA" THEN MEDICAL AND THE DETAINEE BEGAN DISCUSSING TESTOSTERONE AND HOW THE U.S. DOESNT USE IT. DETAINEE THEN GAVE THE CORPSMAN 2 MEDICAL WORDS TO LOOK UP IN REGARDS TO MEDICATION WITH TESTOSTERONE IN IT. MEDICAL WROTE THEM DOWN AND SAID HED BE BACK LATER WITH THE INFORMATION FOR HIM.
S//NF		Other	WHILE MEDICAL WAS ON THE BLOCK FOR MED PASS (b)(2) REQUESTED THE NAME OF A BOOK FROM THE CORPSMAN. THE "U.S. PHARMACOPIA" THEN MEDICAL AND THE DETAINEE BEGAN DISCUSSING TESTOSTERONE AND HOW THE U.S. DOESNT USE IT. DETAINEE THEN GAVE THE CORPSMAN 2 MEDICAL WORDS TO LOOK UP IN REGARDS TO MEDICATION WITH TESTOSTERONE IN IT. MEDICAL WROTE THEM DOWN AND SAID HED BE BACK LATER WITH THE INFORMATION FOR HIM.
S//NF		(b)(2) Refused Shower	
S//NF		Other	DETAINEE ISSUED A BOOK
S//NF		PT in Cell	DETAINEE TOLD MP THAT PEOPLE WERE DOING PT IN THERE CELLS AND HE NEEDED TO LOG IT INTO COMPUTER.

S//NF	(b)(2)	PT in Cell	TOLD MP'S TO GO AHEAD AND WRITE HIM UP FOR HE WAS GOING TO START DOING PUSH-UPS IN HIS CELL
S//NF		(b)(2) Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	REFUSED (b)(2) MEDS
S//NF		Teaching/Preaching	DETAINEES ARE FACING AND RESPONDING IN (b)(2) DIRECTION WHILE HE PREACHES
S//NF		(b)(2) Refused Medicines	DETAINEE REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Refused Medicines	
S//NF		Other	ON (b)(2) AT APPROXIMATELY (b)(2) DETAINEE LOCATED IN CELL (b)(2) HAD A PACKAGE OF MRE APPLESAUCE.
S//NF		(b)(2) Refused Shower	
S//NF		(b)(2) Refused Medicines	
S//NF		Other	DT (b)(2) STATED TO MP THAT THE ATTACKS ON 9/11 AGAINST THE WORLD TRADE CENTER BUILDINGS CORRESPOND WITH WHERE IS SAYS IN THE KORAN TO FIGHT AGAINST YOUR INFIDELS IN THE KORAN, DT SAID THAT IT IS BECASUE IT CAN BE FOUND IN THE 9 CHAPTER AND THE ELEVEN VERSE. AND THAT THE WORLD TRADE CENTER HAS 110 STORIES AND THAT IT CAN BE FOUNF ON THE 110 LINE IN THE KORAN IN THIS CHAPTER. DT ALSO STATED TO MP THAT HE KNMOW THAT THIS CAMP IS ONLY FOR INTERGATONS AND HE WILL GO HOME SOON.
S//NF		Other	HE WAS GIVEN AN NEW WATER BOTTLE.
S//NF		(b)(2) Refused Medicines	
S//NF		(b)(2) Refused Medicines	(b)(2) REFUSED MEDS
S//NF		Refused Medicines	
S//NF		Verbal Commo - Same /Cross Block	WITH GOLF BLOCK
S//NF		Other	ADVISED HE IS OF TURKISH DECENT, BUT A GERMAN CITIZEN AND THERE ARE 5 MILLION TURKS LIVING IN GERMANY AND IT WILL BE OK BECAUSE I WILL GO HOME SOOM AND HE WILL EITHER GO HOME TOO OR BE HERE A FEW MORE YEARS BECAUSE CUBA IS FOR INTERIGATION AND NOT A REAL JAIL.
S//NF		Verbal Commo - Same /Cross Block	(b)(2) ISN00051 WAS HEARD TALKING ABOUT GEORGE BUSH, WITH DETAINEE IN CELL (b)(2) ISN (b)(2)

S//NF	(b)(2)	Verbal Commo - Same /Cross Block	(b)(2) ISN00061 WAS HEARD TALKING ABOUT GEORGE BUSH, WITH DETAINEE IN CELL (b)(2) SN (b)(2)
S//NF		Other	DETAINEE LOCATED IN CELL NUMBER (b)(2) ASKED (b)(2) TO TAKE CERTAIN ITEMS FROM DETAINEE, AND PLACE THEM IN HIS BOX, MP ASKED DETAINEE IF HE WAS OK, AND DETAINEE REPLYED YES. 1 PRAYER CAP, 1 OIL, WERE PLACED INSIDE DETAINEE'S BOX.
S//NF		Other	DURING MORNING COLORS DETAINEE ISN 00061, WAS OBSERVED BY MP, TO BE PLUGGING HIS EARS WITH HIS FINGERS WHILE MUSIC WAS PLAYING.
S//NF		Harassing Guard	ASKED MP IF HE LIKED BASKETBALL. THEN WAS ASKING HOW TALL THE BASKETBALL RIM WAS.
S//NF		Other	DETAINEE IN CELL (b)(2) WAS TELLING DETAINEE IN CELL (b)(2) THAT HE DID NOT HAVE TO GIVE UP HIS (b)(2) AFTER BEING TOLD TO DO SO BY MP.
S//NF		Other	DETAINEE ASK FOR EXTRA FOOD AT EVERY MEAL. DETAINEE STATES THAT HE NEEDS DOUBLE PORTION DO TO HIS HEALTH CONDITION
S//NF		Extreme Emotion	(b)(2) IS HAVING BAD DREAMS. ADVISED A BLACK MAN WITH WIERD EYES "INVERTED" COMES INTO HIS DREAMS AND TELLS HIM THE AMERICANS ARE GOING TO KILL HIS SON. PSYC AND INTERPERTER CAME TO THE BLOCK, THE SOLUTION, GIVE HIM SOMETHING TO HELP HIM SLEEP. (b)(2)
S//NF		(b)(2) Refused Meal	CHOW
S//NF		Other	DETAINEE STATED TO THE BLOCK NCO TO BRING HIM A CHOCOLATE MILK SHAKE FROM THE CAFE CARIBE OR A SNICKER. HE FURTHER STATED THAT HE WANTS TWO MRE FOR BREAKFAST.
S//NF		Other	COMPLAINED TO BLOCK NCO THAT THE PEOPLE HERE ARE INNOCENT BECAUSE THEY HAVE NOT BEEN TRIED FOR ANYTHING;HE ALSO COMPLAINED THEY ARE NOT AFFORDED THE RIGHT TO HAVE CONTACT WITH FAMILY MEMBERS AND THEIR CELLS ARE TOO SMALL-HE STATED HE WOULD LIKE MORE ROOM TO EXERCISE.
S//NF		Harassing Guard	HE WANTED ME TO LET HIM BLOW MY WHISTLE SO HE COULD WAKE EVERYONE UP.
S//NF		Harassing Guard	
S//NF		Other	STATED THAT MPS ON MIDS DID PUSH UPS WITH HIM ON THE TEAR, INFORM THEM THAT (b)(2) IS HEP A.B POS.
S//NF		Other	NOT PRAYING WITH OTHERS
S//NF		(b)(2) Refused Meal	REFUSED MORNING MRE FOR FASTING.
S//NF		Other	FOUND 1 APPLE AND 1 PEAR DURING CELL SEARCH

~~SECRET//NOFORN~~

S//NF	(b)(2)	Verbal Commo - Same /Cross Block	DETAINEE (b)(2) (61) CROSS BLOCK TALKING TO HIS FRIEND IN (b)(2)
S//NF		Other	(b)(2) ADVISED THAT M.PS FROM OTHER COMPANY ARE GIVEING GATORADE TO THEM FOR CHOW IT WAS FOUND TO BE TRUE
S//NF		(b)(2) Refused Medicines	
S//NF		Other	TOLD MP THE BLOCK IS MAD AT THE MEDIC BECAUSE HE REFUSES TO LISTEN TO THEIR COMPLAINS. THIS WAS AT (b)(2) SICKCALL IS IN THE MORNING NOT IN THE EVENING OF COURSE HE ISN'T GOING TO LISTEN TO THEM.
S//NF		(b)(2) Refused Medicines	
S//NF		Harassing Guard	HARASSING (b)(2) ABOUT SPECIAL MEAL AND FASTING. VERY MUCH UPSET MP ABOUT THE WHOLE THING....
S//NF		Leading Prayer/PT	(b)(2) LEAD PRAYER
S//NF		Verbal Commo - Same /Cross Block	TALKING TO DETAINEE'S IN O-BLOCK
S//NF		Other	LOOKING AT POSTER IN REC FOR A LONG PERIOD OF TIME
S//NF		PT in Cell	
S//NF		Failure to Compy	(b)(2) WAS ADVISED ON SEVERAL TIMES TO TAKE DOWN THE WHITE SHEET TIDED TO THE CELL FROM LEFT TO RIGHT WHILE DOING EXERCISES HE DIDNT COMPLY WHEN TOLD (b)(2) TOOK DOWN THE WHITE SHEET WHEN HE DECIDED HE WAS READY.
S//NF		Other	COMPLAINING THAT HE SHOULD GET REGULAR FOOD FROM BLOCK CHOW AND THE SPECIAL MEAL HE IS SAPPOSED TO GET. DOC SAIS MEDICAL DID NOT AUTHORIZE THIS. WHEN WE TOLD HIM HE WAS ONLY GETTING THE SPECIAL MEAL HE SAJS HE WAS GOING TO CAUSE PROBLEM. (b)(2) TALKED TO HIM TO TRY AND DEESCALATE THE SITUATION AND HE CALMED DOWN, FOR NOW. HE SAYS HE HAS BEEN GETTING BOTH MEALS FOR A WHILE NOW AND THAT IS WHY HE IS UPSET.
S//NF		Verbal Commo - Same /Cross Block	TALKING TO (b)(2)
S//NF		Showing Reverance to Another Detainee	WANTED TO PASS ON FOOD (b)(2)
S//NF	Other	DETAINEE STATED THAT HE HEARD OVER THE PA THAT THEY (DOC) WERE SENDING HOME SOME DETAINEES AND THAT THEY WERE GOING TO PARADE THROUGH ALL OF THE BLOCKS TO SAY GOODBYE. DETAINEE HAS ASKED THE BLOCK SGT SEVERAL TIMES IF THIS IS TRUE. BLOCK SGT DENIED ANY KNOWLEDGE OF ANY DETAINEES MOVING ANYWHERE. DETAINEE ASKED IF THERE WERE ANY CAMERAS ON (b)(2) DETAINEE ALSO ASKED IF THERE WAS GOING TO BE A LUNAR ECLIPSE IN A DAY OR TWO.	

~~SECRET//NOFORN~~

S//NF	(b)(2)	(b)(1) Refused Medicines	REFUSED MEDS
S//NF		Leading Prayer/PT	(b)(2) LEADING PRAYER AND (b)(2) ECHOING PRAYER.
S//NF		Leading Prayer/PT	LEADING PRAYER WITH (b)(2) ECHOING.
S//NF		Leading Prayer/PT	LEADING PRAYER.
S//NF		Leading Prayer/PT	LEADING PRAYER
S//NF		Leading Prayer/PT	(b)(2) WAS LEADING PRAYER WITH (b)(2) ACTING AS REPEATER
S//NF		(b)(1) Refused Medicines	
S//NF		Other	WHILE CONDUCTING SHOWER&REC, HE STATED THAT HE SPOKE MULTIPLE LANGUAGES TO INCLUDE TURKISH, GERMAN, ENGLISH, ARABIC, AND UZBEKI
S//NF		VIP Visits	MEDICAL, MEDPASS
S//NF		Leading Prayer/PT	LEAD PRAYER
S//NF		(b)(2) Refused Meal	REFUSE MEAL DUE TO BEING LATE
S//NF		VIP Visits	CORPSMAN, MEDPASS
S//NF		Other	(b)(2) INFORMED US THAT EVERYONE WAS UPSET ABOUT (b)(2) BANNING ON HIS CELL AND THAT EVERYONE WAS GOING TO THROW STUFF AT THE MP GUARDS IF IT WASN'T FIXED
S//NF		Other	DET. IS HIDING FOOD IN GROIN AREA AND WHEN OUT AT RECREATION HE IS FEEDING THE IGUANAS AND BIRDS. HE REFUSED TO GIVE THE MP ALL HIS CONTRABAND FOOD WHEN ORDERED TO DO SO HE TOSSED IT ALL TO THE IGUANAS.
S//NF		(b)(2) Refused Meal	REFUSED SPECIAL MEAL ADVISED HE WOULD EAT HIS NOON SNACK
S//NF		Refused Meal	REFUSED SPECIAL MEAL
S//NF		Harassing Guard	ALONG WITH (b)(2) HARASSED THE BNCOIC ABOUT NO RULES, NEW RULES AND OLD RULES. BELIEVES THE BNCOIC IS JUST PLAIN DUMB DUE TO THE INCONSISTANT LIGHTING SITUATION...
S//NF		Refuses Meals	(b)(2) ASKED ME TO GIVE HIS UNEATEN SPECIAL MEAL TO SOMEONE ELSE. HE WAS NOT SPECIFIC ABOUT WHO.
S//NF		Other	WHEN PICKING UP TRASH FROM RAMADON SNACK HE DIDN'T EAT HIS APPLE AND REQUESTED THAT I GIVE IT TO SOMEONE ELSE
S//NF		Other	REFUSED MEAL, SPECIAL
S//NF	(b)(2) Refused Meal	DETAINEE REFUSED TO EAT HIS SPECIAL MEAL, HOWEVER WANT THE BLOCK NCO TO PASS IT TO ANOTHER DETAINEE. WHICH WAS DENIED, THE DETAINEE SUBSEQUENTLY TURNED THE MEAL OVER TO THE BLOCK NCO WHO LATER THREW IT IN THE TRASH.	

S//NF	(b)(2)	Other	WHILE (b)(2),(b)(3) TO USC §1306,(b)(6) WERE PUTTING UP THE FLAPS ON THE CELL WINDOWS (b)(1) Sec 1.4 A,(b)(1) Sec 1.4 C
S//NF		Other	
S//NF		(b)(1) Refused Meal	
S//NF		Harassing Guard	TOLD GUARD THAT IF GUARDS GAVE HIM PROBLEMS THEY WOULD HAVE SHIT ON THEM WHEN THEY LEFT.
S//NF		Other	ON (b)(2) REQUESTED TO SEE THE DUTY OFFICER. WHEN TO (b)(2)ARRIVED (b)(2) INFORMED THE (b)(2)AND THE BLOCK NCO THAT (b)(2) HAD STATED TO THE BLOCK THAT HE HAD A SPOON OR ANOTHER OBJECT AND THAT HE SHAPENED IT AND HE WAS WAITING FOR SHOWER AND EXERCISE TO STAB A GUARD IN THE STOMACH OR THROAT. (b)(2) DID NOT WANT THE OTHER DETAINEES TO KNOW THAT HE WAS TELLING US THIS. (b)(2) ALSO STATED THAT (b)(2) ENCOURAGED ALL DETAINEES TO DO THE SAME BECAUSE IT WOULD MAKE THINGS BETTER.
S//NF		Other	ASKED A GUARD FROM THE (b)(2) WHY THEY ARE NOT (b)(2) NO ANSWER WAS GIVEN TO THE DETAINEE FROM GUARD
S//NF		Other	FOOD CONTRABAND IN CELL CONSISTING OF 2 APPLES AND A ORANGE
S//NF		(b)(1) Refused Meal	REFUSED SPECIAL MEAL
S//NF		Banging Cell	HITTING CELL WITH FIST
S//NF		(b)(1) Refused Shower	
S//NF		Other	DETAINEE (b)(2) IS AT (b)(2) BUT HE HAS TWO CUPS IN HIS CELL?
S//NF		(b)(1) Refused Shower	
S//NF		Requests Interpreter	(b)(2)
S//NF		Other	DETAINEE STATES THAT IF HE IS NOT ABLE TO SEE THE COMMANDER THERE IS GOING TO BE BIG PROBLEMS
S//NF		(b)(1) Refused Medicines	REFUSED FLU SHOT
S//NF		Other	WISHES TO TALK TO THE COMMANDER ABOUT THE PROBLEMS GOING ON AT (b)(1) Sec 1.4 A
S//NF		Leading Prayer/PT	LEADING PRAYER
S//NF		VIP Visits	MEDICAL

S//NF	(b)(2)	(b)(1) Refused Medicines	
S//NF		PT in Cell	
S//NF		Other	DETAINEE REQUESTED TO SEE (b)(2) IN REF TO MEDS. DETAINEE STATES THAT HE HAS BEEN DENIED MEDS ON NUMEROUS OCCASIONS BY SAME MEDIC ON THE MIDS SHIFT. HE STATES THAT THE MEDIC ALSO DENIES HIM ENSURE WHILE PROVIDING BOTH MEDS AND ENSURE FOR OTHER DETAINEES. (b)(2) STATES THAT THIS IS NOT HIS FIRST TIME MAKING THIS COMPLAINT.
S//NF		Other	DETAINEE REQUESTS TO SEE DUTY OFFICER IN REFERENCE TO ILLNESS AND STATES THAT HE IS NOT RECEIVING REQUIRED MEDICATION. MEDICAL STATES THAT MEDS HAVE ENDED FOR THIS DETAINEE AND HE MAKES THE SAME REQUEST EACH TIME THEY ENTER THE BLOCK
S//NF		PT in Cell	
S//NF		(b)(1) Refused Medicines	
S//NF		VIP Visits	MEDS REFUSED DETAINE UNHAPPY
S//NF		VIP Visits	MEDIC ISSUED MEDS DETAINE HAPPY
S//NF		VIP Visits	MEDIC ISSUES MEDS DETAINE HAPPY
S//NF		PT in Cell	
S//NF		VIP Visits	MEDIC: MEDS
S//NF		VIP Visits	MEDIC: MEDS
S//NF		Verbal Commo - Same /Cross Block	(b)(2) WHISPERING BACK AND FORTH TO EACH OTHER
S//NF		Other	REQUESTING TO SEE CO IN PREFERENCE TO (PREVENT BODILY FLUIDS FROM BEING THROWN ON/AT MPS)
S//NF		Other	PACING BACK AND FORTH IN HIS CELL
S//NF		PT in Cell	IS WORKING OUT WITH MAKESHIFT WEIGHTS
S//NF		PT in Cell	
S//NF		Extreme Emotion	PACING IN CELL NON STOP
S//NF		PT in Cell	USING A SHEET AS A PULL UP BAR
S//NF		Other	DETAINEE IS ON THE LIST (b)(2) SPECIAL MEALS BUT HE STATED THAT HE NEVER GETS A SPECIAL MEAL AND THAT HE ALWAYS GETS A REGULAR MEAL HE SAYS THAT HE KNOWS NOTHING ABOUT GETTING A MECHANICAL SOFT MEAL FROM NAV HOS.
S//NF	PT in Cell	DETAINEE WAS DOING LUNGES OFF OF BUNK IN CELL	
S//NF	Harassing Guard	CONTINUOUSLY ASKS FOR 'DONKEY' GUARD TO BRING HIM THINGS. SEEMS TO IMPRESS DETAINEES AROUND HIM. TOLD DETAINEE IS WAS RUDE AND WE DONT UNDERSTAND WHY THAT IS SO BAD, NEEDS NEW INSULT.	
S//NF	Hostile Act	TOLD MP, HE WAS 'STUPID' AND 'FUCK YOU'	
S//NF	Verbal Commo - Same /Cross Block	CONVERSING WITH (b)(2) ON FIGHTING AND KICKBOXING STYLES. RECEIVED INSTRUCTIONS FROM (b)(2) ON SAME.	

S//NF	(b)(2)	(b)(2) Refused Shower	
S//NF		Other	GONE TO ICRC
S//NF		Other	DAMAGE TO BEANHOLE
S//NF		Other	REFUSED SHOWER
S//NF		(b)(2) Refused Shower	
S//NF		PT In Cell	
S//NF		Refuses Meals	
S//NF		(b)(2) Refused Meal	
S//NF		Refuses Meals	
S//NF		(b)(2) Refused Meal	
S//NF		Showing Reverance to Another Detainee	(b)(2) WAS SHOWING HIS AUTHORIZED JIFF MAGAZINE MATERIAL TO (b)(2) WHILE SITTING BELOW THE BUNK
S//NF		(b)(2) Refused Meal	LUNCH
S//NF		(b)(2) Refused Meal	
S//NF		Refused Meal	
S//NF		Refused Meal	ATE HIS APPLE
S//NF		Other	WAS TRYING TO GET A MP TO PASS FOOD, HE SAYS THAT IF THEY ARE ON HUNGER STRIKE/FASTING THAT IT IS OK TO PASS FOOD.
S//NF		Hostile Act	WHILE MPS WERE ASKING (b)(2) WHAT THE MIXTURE IN HIS CUP WAS (b)(2) (U) WANTED TO LOOK AT IT. HE THEN STATED THAT IT WAS PROBABLY A BOMB AND IT WOULD BLOW UP AFTER THE MPS TOOK IT OUT OF HIS CELL.
S//NF		(b)(2) Refused Meal	
S//NF		Refused Meal	
S//NF		Other	DID NOT PRAY WITH BLOCK
S//NF	(b)(2) Refused Meal	LUNCH	
S//NF	(b)(2) Refused Meal		
S//NF	Refused Meal		
S//NF	Refused Meal		
S//NF	Refuses Meals	DETAINEE REFUSED CHOW	
S//NF	(b)(2) Refused Meal	REFUSED CHOW. ON HUNGER STRIKE	
S//NF	Refused Meal	REFUSED LUNCH	
S//NF	Refused Meal	REFUSED BREAKFAST	
S//NF	Refused Meal	REFUSED DINNER, AND SAID THAT HE WAS ON A HUNGER STRIKE	
S//NF	(b)(2) Refused Meal	DID NOT WANT LUNCH	
S//NF	Refused Meal	DID NOT WANT TO EAT BREAKFAST	
S//NF	Refused Meal	REFUSED CHOW / HUNGER STRIKE	
S//NF	Refused Meal	REFUSED LUNCH	
S//NF	Other	REFUSED CHOW, BOTH MEALS FOR THE DAY AND TOLD (b)(3):10 USC TO TELL DOC THAT (b)(2) WAS EATING ALL OF HIS FOOD AND WAS HEALTHY	
S//NF	(b)(2) Refused Meal	BREAKFAST SERVED	
S//NF	Refuses Meals	DURING CHOW DETAINEE (b)(2) REFUSED TO EAT HIS DINNER BUT ATE HIS APPLE AND ALSO STATED TO MP TO LOG DOWN THAT HE ATE HIS WHOLE DINNER	

S//NF	(b)(2)	Fasting	DURING CHOW DETAINEE (b)(2) REFUSED TO EAT HIS DINNER BUT ATE HIS APPLE AND ALSO STATED TO MP TO LOG DOWN THAT HE ATE HIS WHOLE DINNER
S//NF		Other	(b)(2) TRANSLATED FOR MP TALKING TO (b)(2) IN AN EFFORT TO RETRIEVE C'S THAT (b)(2) WAS IN POSSESSION OF. (b)(2) COMPLIED AND OFFERED NO RESISTANCE OR COMPLAINTS. (b)(2) WAS VERY HELPFUL.
S//NF		Other	STATED HE IS EATING ONLY FRUIT AT MEALS BECAUSE IT IS RUDE TO EAT IN FRONT OF OTHER DETAINEES THAT ARE ON HUNGER STRIKE. STATED THAT DETAINEES ARE ON HUNGER STRIKE FOR MANY REASONS INCLUDING: SHAVING OF BEARDS AS PUNISHMENT, AND THERE HAVE BEEN NO TRIALS TO DETERMINE WHO IS INNOCENT OR GUILTY, AND INNOCENT PEOPLE ARE BEING HELD HERE.
S//NF		Other	APPLE ONLY FOR LUNCH. HE REQUESTED THAT HE BE ENTERED AS EATING ALL OF HIS FOOD, BECAUSE HIS INTERROGATORS ASK HIM IF HE IS NOT EATING.
S//NF		Other	FRUIT ONLY FOR BREAKFAST
S//NF		(b)(2) Refused Meal	
S//NF		(b)(2) Refused Meal	
S//NF		Refuses Meals	
S//NF		(b)(2) Refused Meal	
S//NF		PT in Cell	DETAINEE DOING PT IN CELL
S//NF		Other	(b)(2) IS CONSTANTLY WALKING AROUND HIS CELL, DETAINEE SEEMS TO BE DISTRAUGHT.
S//NF		PT in Cell	
S//NF		Other	WANTS TO BE TOLD IF (b)(2) DIES WHILE AT MEDICAL
S//NF		Other	COVERED EARS AND PRAYED LOUDLY DURING NATIONAL ANTHEM
S//NF		Other	WANTS TO KNOW IF (b)(2) DIES
S//NF		Other	ASKING HOW MANY DAYS (b)(2) WILL STAY IN THIS BLOCK
S//NF		Showing Reverance to Another Detainee	(b)(2) WANTED TO MAKE SURE WE WOULD TAKE CARE OF (b)(2) WHO HAD FAINTED IN THE REC YARD
S//NF		Verbal Commo - Same /Cross Block	CROSS COMMO WITH (b)(2)
S//NF		Other	SAYS THEY HAVE A REASON FOR THE HUNGER STRIKE, ALSO THAT HE KNOWS OF THREE OTHER DETAINEES THAT WERE ON HUNGER STRIKE AND THAT HE DOESN'T KNOW WHAT HAPPENED TO THEM. HE SAID HE THINKS THAT THEY DIED AND THAT THE CAMP COMMANDER COVERED IT UP.
S//NF		PT in Cell	
S//NF		Verbal Commo - Same /Cross Block	

S//NF	(b)(2)	PT in Cell	
S//NF		(b)(2) Refused Shower	
S//NF		Refused Shower	
S//NF		Verbal Commo - Same /Cross Block	(b)(2) STATES, AFTER GENERAL PAYNE LEAVES THE BLOCK, THAT THE IGUANA OUTSIDE IS WORTH MORE THAN THAT GENERAL.
S//NF		Verbal Commo - Same /Cross Block	(b)(2) WERE ATTEMPTING TO FEED AN IGUANA THEIR CHOW.
S//NF		Other	(b)(2) DID NOT WANT TO BE SINGLED OUT FOR BEING CAUCASIAN.
S//NF		Other	TOLD MPS THAT PRIOR SHIFT (b)(2) TOLD THE DETAINEES THAT IT IS OKAY TO DO MARTIAL ARTS IN THEIR CELLS AND IN THE REC YARD.
S//NF		PT in Cell	
S//NF		Other	FOOT REST ON TOILET IS BROKEN AND HE IS WORRIED THAT HE WILL GET IN TROUBLE IF IT FALLS OFF.
S//NF		(b)(2) Refused Meal	DINNER
S//NF		PT in Cell	JOGGING IN CELL
S//NF		Other	WHILE CONDUCTING A WALK THROUGH AND SECURITY CHECKS OF THE BLOCK DETAINEE (b)(2) ISN 061 STATED THAT MP'S FROM ANOTHER UNIT WERE TAKING PICTURES OF DETAINEES WHILE THEY WERE IN (b)(2) BLOCKS. THE DETAINEE WENT ON TO SAY THAT THEY WERE USING A SMALL CAMERA TO TAKE THE PICTURES. THE DETAINEE SAID THAT THE MP'S HELD THE CAMERA UP TO THE WINDOW OF THE CELL TO TAKE THE PICTURES. DETAINEE ALSO STATED THAT THE SAME MP'S HAVE DONE THIS BEFORE.
S//NF		Leading Prayer/PT	REPEATING PRAYER AFTER IT IS CALLED
S//NF		Other	ASKED ANOTHER MP THAT HE WAS IN AMERICA AND THOUGHT IT WAS BEAUTIFUL AND ASKED THE MP IF HE THOUGHT IS AMERICA WAS BEAUTIFUL. HE STATED HE'S BEEN THERE THREE TIMES. HE ALSO STATED THAT IN THIS WORLD THERE ARE GOOD MP'S AND BAD MP'S.
S//NF		Other	ASKING ABOUT THE U.S.,IF IT WAS NICE, HOW LARGE THE CITIES ARE AND HOW MANY PEOPLE, IF THERE ARE ANY GERMANS IN THE U.S.
S//NF		(b)(2) Refused Shower	
S//NF		Other	CROSS BLOCK COMMO WITH (b)(2) AND TOUCHING ANOTHER DETAINEE ON (b)(2)
S//NF		Other	DURING MORNING CHOW THERE WAS A PROBLEM BETWEEN (b)(2) AND AN MP. THE PROBLEM WAS RESOLVED BUT THE DETAINEE EXPLAINED THAT THE DETAINEES ON THIS BLOCK ARE HERE FOR DISCIPLINE AND WOULD HAVE NO PROBLEM SPITTING ON MP'S AND DOING OTHER THINGS.
S//NF		Harassing Guard	HARRASSING FEMALE GAURD LAUGHING AND NOT LISTENING TO COMMANDS
S//NF		PT in Cell	PT IN CELL

S//NF	(b)(2)	Hostile Act	WHILE MEDICAL WERE ASSITING OTHER DETAINEE (b)(2) CALLED MEDICAL: DONKEY
S//NF		Harassing Guard	CONTINUALLY HARASSED GUARDS THROUGH OUT THE SHIFT, LAUGHING AT THEM, TELLING THEM TO WORK, AND SAYING THEY WERE DOING A WOMANS JOB. THIS WAS CONTINUOUS THROUGHOUT THE DAY.
S//NF		Harassing Guard	CONTINUALLY HARASSED GUARDS THROUGH OUT THE SHIFT, LAUGHING AT THEM, TELLING THEM TO WORK, AND SAYING THEY WERE DOING A WOMANS JOB. THIS WAS CONTINUOUS THROUGHOUT THE DAY.
S//NF		Other	(b)(2) ASKED ME AS I PASSED HIS CELL HOW MANY PUSHUPS I DO. I TOLD HIM MANY AND HE ASKED ME IF I WOULD DO PUSHUPS WITH HIM.I TOLD HIM NOW AND CONTINUED WALKING.
S//NF		(b)(1) Refused Shower	
S//NF		PT IN CELL	
S//NF		INTERPRETER	
S//NF		INTERPRETER	
S//NF		TO SEE JIIF	
S//NF		VOCAL - INSIDE BLOCK	ASKING THE GAURDS ABOUT CAMP FOUR
S//NF		INTERPRETER	TURKISH.
S//NF		PT IN CELL	
S//NF		INTERPRETER	
S//NF		REFUSED MEAL	
S//NF		LED PRAYER	
S//NF		LED PRAYER	
S//NF		TO SEE JIIF	
S//NF		REFUSED MEAL	
S//NF		PT IN CELL	
S//NF		GUARD'S ASSESSMENT	
S//NF		FASTING	
S//NF		PT IN CELL	
S//NF		BANGING ON CELL	BANGING ON CELL BECAUSE THE INTERPRETER MISUNDERSTOOD WHAT HE SAID.
S//NF		INCITING DISTURBANCE	
S//NF		OTHER	MRE FOR BREAKFAST
S//NF		VOCAL - INSIDE BLOCK	TOLD THE GUARDS DETAILS OF HIS CAPTURE AND TOLD THEM HE WAS THE WRONG GUY
S//NF		VOCAL - INSIDE BLOCK	SPOKE ON BEHALF OF (b)(2),(b)(6) INFORMED MP THAT (b)(2) WAS HAVING STOMACH PAINS.
S//NF		OTHER NON-HOSTILE ACTION	THREW/SPAT CHEWED APPLE ONTO TIER FLOOR
S//NF		OTHER NON-HOSTILE ACTION	HOARDING FOOD
S//NF		FAILURE TO COMPLY	AT (b)(2) WAS ARGUING WITH MEDICAL ESCORTS AND REFUSED TO GO TO MEDICAL FOR HIS TB MEDICATION.
S//NF		OTHER	WANTS DRAWING MATERIAL.

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S//NF	(b)(2)		OTHER	WANTS THE POUND CAKE TAKEN OUT OF THE MRE'S BECAUSE THEY CONTAIN GLYCEROL A FORM OF ALCOHOL.
S//NF			FAILURE TO COMPLY	AT (b)(2) REFUSED TO SHOW ID BAND WHEN ASKED.
S//NF			REFUSED MEAL	
S//NF			OTHER	AT (b)(2) SUBJECT REQUESTS TO SPEAK WITH THE MUSLIM CHAPLAIN. (b)(2) IS NOTIFIED.
S//NF			REFUSED MEAL	AT (b)(2) SUBJECT REFUSED HIS MEAL.
S//NF			REFUSED MEAL	AT (b)(2) REFUSED MEAL.
S//NF			REFUSED MEAL	AT REFUSED MEAL.
S//NF			OTHER HOSTILE ACTION	AT WHILE MOVING FROM (b)(2) THROUGH WATER ON THE MP.
S//NF			OTHER HOSTILE ACTION	AT (b)(2) THREW WATER ON MP.
S//NF			REFUSED MEDICATIONS	
S//NF			OTHER	(b)(2) WANTS TO MAKE A PHONE CALL
S//NF			OTHER NON-HOSTILE ACTION	AFTER EATING HIS BREAKFAST, DETAINEE TORE HIS PLATE INTO ABOUT 15 PIECES. WHEN ASKED WHY HE SAID HE DID IT, HE REPLIED, "I LIKE TO PLAY."
S//NF			MOVEMENT	WANTS TO GET MOVED TO ANOTHER BLOCK.

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Two page document classified above the
~~SECRET~~ level that was considered by
the Administrative Review Board

700216-217

700218 (number not used)

[REDACTED] (OARDEC)

From: McGarrah, James M. RADM, OSD ([REDACTED])
Sent: Thursday, February 02, 2006 1:17 PM
To: McPalmer, Teresa
Cc: [REDACTED]
Subject: RE: ISN 061 Habeas Info (SECRET)

~~Classification: SECRET
Caveats: NOFORN~~

Terri,
[REDACTED]

JM

-----Original Message-----

From: McPalmer, Teresa [mailto:[REDACTED]]
Sent: Wednesday, February 01, 2006 3:44 PM
To: McGarrah, James (OARDEC); McGarrah, James
Cc: [REDACTED]

Subject: FW: ISN 061 Habeas Info (SECRET)

~~Classification: SECRET
Caveats: NOFORN~~

Admiral McGarrah,

ISN 061's first ARB was conducted on 4 November 2005. The ARB assessed ISN 061 as [REDACTED] threat and [REDACTED] intelligence value. On 5 January 2006 the DCO decided to further detain ISN 061. During an audit by the OARDEC legal staff, we discovered that ISN 061's attorney's submission to the ARB was not considered by the ARB. The ARB reconvened to consider this material and decided that the addition of that material did not affect their ultimate recommendation in the case.

[REDACTED]

Very respectfully,
Terri McPalmer
CDR, JAGC, USN
OARDEC Legal Advisor

-----Original Message-----

From: [REDACTED]
[mailto:[REDACTED]]
Sent: Thursday, January 12, 2006 5:38 PM

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encl (6)

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FILED WITH
COURT SECURITY OFFICER

Debra E. [unclear]
DATE 1/31/2005

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

)	Civil Action Nos.
)	02-CV-0299 (CKQ), 02-CV-0828 (CKQ),
)	02-CV-1130 (CKQ), 04-CV-1135 (ESE),
<i>In re Guantanamo Detainee Cases</i>)	04-CV-1136 (JDB), 04-CV-1137 (RMC),
)	04-CV-1144 (RWR), 04-CV-1164 (RBW),
)	04-CV-1194 (HHK), 04-CV-1217 (RBW),
)	04-CV-1254 (HHK)

MEMORANDUM OPINION DENYING IN PART AND
GRANTING IN PART RESPONDENTS' MOTION TO DISMISS
OR FOR JUDGMENT AS A MATTER OF LAW

These eleven coordinated ~~hybrid~~ cases were filed by detainees held as "enemy combatants" at the United States Naval Base at Guantanamo Bay, Cuba. Presently pending is the government's motion to dismiss or for judgment as a matter of law regarding all claims filed by all petitioners, including claims based on the United States Constitution, treaties, statutes, regulations, the common law, and customary international law. Counsel filed numerous briefs addressing issues raised in the motion and argued their positions at a hearing in early December 2004. Upon consideration of all filings submitted in these cases and the arguments made at the hearing, and for the reasons stated below, the Court concludes that the petitioners have stated valid claims under the Fifth Amendment to the United States Constitution and that the procedures implemented by the government to confirm that the petitioners are "enemy combatants" subject to indefinite detention violate the petitioners' rights to due process of law. The Court also holds that at least some of the petitioners have stated valid claims under the Third

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Geneva Convention. Finally, the Court holds that the government is entitled to the dismissal of the petitioners' remaining claims.

Because this Memorandum Opinion references classified material, it is being issued in two versions. The official version is unredacted and is being filed with the Court Security Officer at the U.S. Department of Justice responsible for the management of classified information in these cases. The Court Security Officer will maintain possession of the original, distribute copies to counsel with the appropriate security clearances in accordance with the procedures earlier established in these cases, and ensure that the document is transmitted to the Court of Appeals should an appeal be taken. Classified information in the official version is highlighted in gray to alert the reader to the specific material that may not be released to the public. The other version of the Memorandum Opinion contains redactions of all classified information and, in an abundance of caution, portions of any discussions that might lead to the discovery of classified information. The redacted version is being posted in the electronic docket of the cases and is available for public review.

I. BACKGROUND

In response to the horrific and unprecedented terrorist attacks by al Qaeda against the United States of America on September 11, 2001, Congress passed a joint resolution authorizing the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks . . . , or

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harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons." Authorization for Use of Military Force, Pub. L. No. 107-40, § 2(a), 115 Stat. 224 (2001) (hereinafter "AUMF"). In accordance with the AUMF, President George W. Bush ordered the commencement of military operations in Afghanistan against al Qaeda and the Taliban regime, which harbored the terrorist organization. During the course of the military campaign, United States forces took custody of numerous individuals who were actively fighting against allied forces on Afghan soil. Many of these individuals were deemed by military authorities to be "enemy combatants" and, beginning in early 2002, were transferred to facilities at the United States Naval Base at Guantanamo Bay, Cuba, where they continue to be detained by U.S. authorities.

In addition to belligerents captured during the heat of war in Afghanistan, the U.S. authorities are also detaining at Guantanamo Bay pursuant to the AUMF numerous individuals who were captured hundreds or thousands of miles from a battle zone in the traditional sense of that term. For example, detainees at Guantanamo Bay who are presently seeking habeas relief in the United States District Court for the District of Columbia include men who were taken into custody as far away from Afghanistan as Gambia,¹ Zambia,² Bosnia,³ and Thailand.⁴ Some have

¹ Jami] El-Barra and Bisher Al-Rawi, petitioners in El-Barra v. Bush, 04-CV-1144 (RWR).

² Martin Mubanga, petitioner in El-Barra v. Bush, 04-CV-1144 (RWR).

³ Lakhdar Boumediene, Mohammed Nechle, Hadj Boudella, Belkacem Bensayah, Mustafa Ait Idr, and Saber Lahrnar, petitioners in Boumediene v. Bush, 04-CV-1166 (RLL).

⁴ Saifullah Paracha, petitioner in Paracha v. Bush, 04-CV-2022 (PLP).

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already been detained as long as three years³ while others have been captured as recently as September 2004.⁴ Although many of these individuals may never have been close to an actual battlefield and may never have raised conventional arms against the United States or its allies, the military nonetheless has deemed them detainable as "enemy combatants" based on conclusions that they have ties to al Qaeda or other terrorist organizations.

All of the individuals who have been detained at Guantanamo Bay have been categorized to fall within a general class of people the administration calls "enemy combatants." It is the government's position that once someone has been properly designated as such, that person can be held indefinitely until the end of America's war on terrorism or until the military determines on a case by case basis that the particular detainee no longer poses a threat to the United States or its allies. Within the general set of "enemy combatants" is a subset of individuals whom the administration decided to prosecute for war crimes before a military commission established pursuant to a Military Order issued by President Bush on November 13, 2001. Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, 66 Fed. Reg. 57,833 (Nov. 13, 2001). Should individuals be prosecuted and convicted in accordance with the Military Order, they would be subject to sentences with fixed terms of incarceration or other specific penalties.

Since the beginning of the military's detention operations at Guantanamo Bay in early 2002, detainees subject to criminal prosecution have been bestowed with more rights than

³ E.g. the petitioners in Al Odah v. Bush, 02-CV-0828 (CKK).

⁴ E.g. Saifullah Paracha in Paracha v. Bush, 04-CV-2022 (PLF).

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detainees whom the military did not intend to prosecute formally for war crimes. For example, the military regulations governing the prosecutions of detainees required a formal notice of charges, a presumption of innocence of any crime until proven guilty, a right to counsel, pretrial disclosure to the defense team of exculpatory evidence and of evidence the prosecution intends to use at trial, the right to call reasonably available witnesses, the right to have defense counsel cross-examine prosecution witnesses, the right to have defense counsel attend every portion of the trial proceedings even where classified information is presented, and the right to an open trial with the press present, at least for those portions not involving classified information. See *Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism*, 32 C.F.R. §§ 9.1 et seq. (2005). Although detainees at Guantanamo Bay not subject to prosecution could suffer the same fate as those convicted of war crimes – potentially life in prison, depending on how long America's war on terrorism lasts – they were not given any significant procedural rights to challenge their status as alleged "enemy combatants," at least until relatively recently. From the beginning of 2002 through at least June 2004, the substantial majority of detainees not charged with war crimes were not informed of the bases upon which they were detained, were not permitted access to counsel, were not given a formal opportunity to challenge their "enemy combatant" status, and were alleged to be held virtually incommunicado from the outside world. Whether those individuals deemed "enemy combatants" are entitled under the United States Constitution and other laws to any rights and, if so, the scope of those

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rights is the focus of the government's motion to dismiss and this Memorandum Opinion.⁷

The first of these coordinated cases challenging the legality of the detention of alleged "enemy combatants" at Guantanamo Bay and the terms and conditions of that detention commenced nearly three years ago on February 19, 2002. Rasul v. Bush, 02-CV-0299 (CKK). The action, brought by relatives on behalf of one Australian and two British nationals as their "next friends,"⁸ was styled as a petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2242. The initial relief sought included an order requiring the release of the detainees, an order permitting counsel to meet with the detainees in private and without government monitoring, and an order directing the cessation of interrogations of the detainees during the pendency of litigation. The asserted substantive bases for the requested relief ultimately included the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and

⁷ In a decision issued on November 8, 2004, Judge James Robertson ruled that the procedures for trying Guantanamo detainees for alleged war crimes by military commission were unlawful for failing to comply with the requirements for courts martial set forth in the Uniform Code of Military Justice. Hamdan v. Rumsfeld, 344 F. Supp.2d 152 (D.D.C. 2004). Only one of the detainees in the above-captioned cases has been given notice that he will be tried for war crimes. That detainee, David Hicks, a petitioner in Hicks v. Bush, 02-CV-0299 (CKK), has filed a separate motion for partial summary judgment challenging the legality of the military commission procedures. Pursuant to an order issued in that case on December 15, 2004, resolution of that motion is being held in abeyance pending final resolution of all appeals in Hamdan. This Memorandum Opinion does not address the legality of the military commission proceedings but rather focuses on the issue of the rights of detainees with respect to their classification as "enemy combatants" regardless of whether they have been formally charged with a war crime.

⁸ 28 U.S.C. § 2242 provides that a habeas petition may be brought "by the person for whose relief it is intended or by someone acting in his behalf."

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Duties of Man, and customary international law.

Less than three months after the commencement of Basil, the second of these coordinated cases was filed. Al Odah v. Bush, 02-CV-0828 (CKK). The individuals filing suit on behalf of the twelve Kuwaiti detainees in that case did not expressly request release from custody but rather sought judicial enforcement of the detainees' asserted rights to meet with family members, be informed of any charges against them, and have access to the courts or some other impartial tribunal to exonerate themselves of any wrongdoing. The alleged bases for these rights included the Fifth Amendment to the United States Constitution, the Alien Tort Claims Act, and the Administrative Procedure Act.

The government filed a motion to dismiss the two cases, arguing that both of them should be classified as habeas actions and asserting that because all of the detainees were aliens being held outside the sovereign territory of the United States, the District Court should dismiss the actions for lack of jurisdiction to hear their claims. The government's motion relied heavily on Johnson v. Eisentrager, 339 U.S. 763 (1950), a Supreme Court case involving German nationals convicted by a United States military commission sitting in China for acts committed in China after Germany's surrender in World War II. The German nationals were eventually incarcerated in Landsberg prison in Germany and sought habeas relief, claiming their trial, conviction, and imprisonment violated Articles I and III of the United States Constitution, the Fifth Amendment, other laws of the United States, and the Geneva Convention governing the treatment of prisoners of war. The Supreme Court ultimately held that the petitioners in Eisentrager had no standing to file a claim for habeas relief in a United States court.

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In a thoughtful analysis of Eisenstrager and its progeny, Judge Colleen Kollar-Kotelly granted the government's motion to dismiss both cases. Rasul v. Bush, 215 F. Supp.2d 55 (D.D.C. 2002). The decision was based on an interpretation that Eisenstrager barred claims of any alien seeking to enforce the United States Constitution in a habeas proceeding unless the alien is in custody in sovereign United States territory. *Id.* at 68. Recognizing that Guantanamo Bay is not part of the sovereign territory of the United States, *id.* at 69, the District Court dismissed the cases for lack of "jurisdiction to consider the constitutional claims that are presented to the Court for resolution." *Id.* at 73. After issuing a show cause order as to why an additional pending habeas case filed by a Guantanamo detainee, Habib v. Bush, 02-CV-1130 (CKK), should not be dismissed in light of the decision in Rasul and Al Odah, the District Court also dismissed that case, and all three cases were appealed to the United States Court of Appeals for the District of Columbia Circuit.

On appeal, the D.C. Circuit affirmed the District Court's decisions in all three cases. Al Odah v. United States, 321 F.3d 1134 (D.C. Cir. 2003). Reviewing recent precedent involving aliens and constitutional rights, the Court of Appeals announced, "The law of the circuit now is that a 'foreign entity without property or presence in this country has no constitutional rights, under the due process clause or otherwise.'" *Id.* at 1141 (citing People's Mojahedin Org. v. Dep't of State, 182 F.3d 17, 22 (D.C. Cir. 1999) and 32 County Sovereignty Comm. v. Dep't of State, 292 F.3d 797, 799 (D.C. Cir. 2002)). "The consequence," the court continued, "is that no court in this country has jurisdiction to grant habeas relief, under 28 U.S.C. § 2241, to the Guantanamo detainees, even if they have not been adjudicated enemies of the

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United States." *Id.* at 1141.

The Supreme Court reversed the D.C. Circuit's decision and held that the District Court did have jurisdiction to hear the detainees' habeas claims. Rasul v. Bush, ___ U.S. ___, 124 S. Ct. 2686 (2004). The majority opinion, issued June 28, 2004, noted several facts that distinguished the Guantanamo detainees from the petitioners in Eisenberger more than fifty years earlier:

[The Guantanamo petitioners] are not nationals of countries at war with the United States, and they deny that they have engaged in or plotted acts of aggression against the United States; they have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing; and for more than two years they have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control.

124 S. Ct. at 2693. Emphasizing that "[b]y the express terms of its agreements with Cuba, the United States exercises 'complete jurisdiction and control' over the Guantanamo Bay Naval Base," and highlighting that the government conceded at oral argument that "the habeas statute would create federal-court jurisdiction over the claims of an American citizen held at the base," the Court concluded, "Aliens held at the base, no less than American citizens, are entitled to invoke the federal courts' authority under [the habeas statute]." 124 S. Ct. at 2696.

The Supreme Court expressly acknowledged that the allegations contained in the petitions for writs of habeas corpus "unquestionably describe 'custody in violation of the Constitution or laws or treaties of the United States'" as required by the habeas statute, 124 S. Ct. at 2698 n.15 (quoting 28 U.S.C. § 2241(c)(3)), and concluded by instructing:

Whether and what further proceedings may become necessary after respondents make their response to the merits of petitioners' claims are matters that we need

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not address now. What is presently at stake is only whether the federal courts have jurisdiction to determine the legality of the Executive's potentially indefinite detention of individuals who claim to be wholly innocent of wrongdoing. Answering that question in the affirmative, we reverse the judgment of the Court of Appeals and remand for the District Court to consider in the first instance the merits of petitioners' claims.

124 S. Ct. at 2699.

On July 7, 2004, nine days after the issuance of the Rasul decision, Deputy Secretary of Defense Paul Wolfowitz issued an Order creating a military tribunal called the Combatant Status Review Tribunal (hereinafter "CSRT") to review the status of each detainee at Guantanamo Bay as an "enemy combatant."⁹ It appears that this is the first formal document to officially define the term "enemy combatant" as used by the respondents. That definition is as follows:

(T)he term "enemy combatant" shall mean an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces.

The Deputy Secretary's Order notes that all Guantanamo detainees were previously determined to be "enemy combatants" through what the Order describes without additional specificity as "multiple levels of review by officers of the Department of Defense." Order at 1. The Order sets forth procedures by which detainees can contest this status before a panel of three commissioned military officers.

The CSRT procedures will be described in more detail below, but in brief, under the terms of the July 7 Order and a July 29, 2004 Memorandum issued by Secretary of the Navy

⁹ The document is attached as Exhibit A to the respondents' motion to dismiss and can also be found at <http://www.defenselink.mil/news/Jul2004/d20040707review.pdf>.

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Gordon England implementing the Order,¹⁰ detainees for the first time have the right to hear the factual bases for their detention, at least to the extent that those facts do not involve information deemed classified by the administration. Detainees also have the right to testify why they contend they should not be considered "enemy combatants" and may present additional evidence they believe might exculpate them, at least to the extent the tribunal finds such evidence relevant and "reasonably available." The detainees do not have a right to counsel in the proceedings, although each is assigned a military officer who serves as a "Personal Representative" to assist the detainee in understanding the process and presenting his case. Formal rules of evidence do not apply, and there is a presumption in favor of the government's conclusion that a detainee is in fact an "enemy combatant." Although the tribunal is free to consider classified evidence supporting a contention that an individual is an "enemy combatant," that individual is not entitled to have access to or know the details of that classified evidence.

The record of the CSRT proceedings, including the tribunal's decision regarding "enemy combatant" status, is reviewed for legal sufficiency by the Staff Judge Advocate for the Convening Authority, the body designated by the Secretary of the Navy to appoint tribunal members and Personal Representatives. After that review, the Staff Judge Advocate makes a recommendation to the Convening Authority, which is then required either to approve the panel's decision or to send the decision back to the panel for further proceedings. It is the government's position that in the event a conclusion by the tribunal that a detainee is an "enemy combatant" is

¹⁰ The Implementing Memorandum is attached as Exhibit B to the motion to dismiss and can also be found at <http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf>.

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affirmed, it is legal to hold the detainee in custody until the war on terrorism has been declared by the President to have concluded or until the President or his designees have determined that the detainee is no longer a threat to national security. If the tribunal finally determines that a detainee should no longer be deemed an "enemy combatant," a written report of the decision is forwarded to the Secretary of Defense or his designee, who is then obligated to contact the Secretary of State for coordination of the transfer of the detainee either to his country of citizenship or elsewhere in accordance with law and U.S. foreign policy.

In the wake of the Supreme Court's decision in Rasul, several new habeas cases were filed on behalf of Guantanamo detainees in addition to those cases that were remanded by the Court as part of Rasul. As of the end of July 2004, thirteen cases involving more than sixty detainees were pending before eight Judges in this District Court. On July 23, 2004, the respondents filed a motion to consolidate all of the cases pending at that time. The motion was denied without prejudice three days later. On August 4, 2004, the respondents filed a motion seeking coordination of legal issues common to all cases. By order dated August 17, 2004, Judge Gladys Kessler on behalf of the Calendar and Case Management Committee granted the motion in part, designating this Judge to coordinate and manage all proceedings in the pending matters and, to the extent necessary, rule on procedural and substantive issues common to the cases. An Executive Session Resolution dated September 15, 2004 further clarified that this Judge would identify and delineate both procedural and substantive issues common to all or some of these cases and, as consented to by the transferring judge in each case, rule on common procedural issues. The Resolution also provided that to the extent additional consent was given by the

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transferring Judges, this Judge would address specified common substantive issues. The Resolution concluded by stating that any Judge who did not agree with any substantive decision made by this Judge could resolve the issue in his or her own case as he or she deemed appropriate. Although issues and motions were transferred to this Judge, the cases themselves have remained before the assigned Judges.

After two informal status conferences discussing, among other issues, the factual bases for the government's detention of the petitioners, this Judge issued a scheduling order requiring the respondents to file responsive pleadings showing cause why writs of habeas corpus and the relief sought by petitioners should not be granted. The order also incorporated the respondents' proposed schedule for the filing of factual returns identifying the specific bases upon which they claim the government is entitled to detain each petitioner at Guantanamo Bay as an "enemy combatant." Although most of the detainees had already been held as "enemy combatants" for more than two years and had been subjected to unspecified "multiple levels of review," the respondents chose to submit as factual support for their detention of the petitioners the records from the CSRT proceedings, which had only commenced in late August or early September 2004. Those factual returns were filed with the Court on a rolling basis as the CSRT proceedings were completed, with the earliest submitted on September 17, 2004 and the latest on December 30, 2004. Because every complete CSRT record contained classified information, respondents filed redacted, unclassified versions on the public record, submitted the full, classified versions for the Court's in camera review, and served on counsel for the petitioners with appropriate security clearances versions containing most of the classified information

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disclosed in the Court's copies but redacting some classified information that respondents alleged would not exculpate the detainees from their "enemy combatant" status.

During the fall, the Court resolved numerous procedural issues common to all cases. Among other matters, the Court ruled that the cases should not be transferred to the Eastern District of Virginia, where the primary respondent, Secretary of Defense Donald Rumsfeld, maintains his office,¹¹ ruled on protective order issues,¹² and granted the petitioners certain rights relating to access to counsel to assist in the litigation of these cases.¹³

On October 4, 2004, the respondents filed their Response to Petitions for Writ of Habeas Corpus and Motion to Dismiss or for Judgment as a Matter of Law in all thirteen cases pending before the Court at that time. Counsel for petitioners filed a joint opposition on November 5, 2004, which was supplemented by additional filings specific to the petitions filed in Al Odah v. United States, 02-CV-0828 (CKQ); El-Barram v. Bush, 04-CV-1144 (RWR); and Boymedine v. Bush, 04-CV-1166 (RTL). Respondents filed replies in support of their original motion. The motions to dismiss in eleven of the thirteen cases were transferred by separate orders issued by the assigned Judges in accordance with the procedures set forth for the resolution of substantive

¹¹ Qureshi v. Bush, 338 F. Supp.2d 91 (D.D.C. 2004).

¹² November 8, 2004 Amended Protective Order and Procedures for Counsel Access to Detainees at the United States Naval Base in Guantanamo Bay, Cuba, 344 F. Supp.2d 174 (D.D.C. 2004).

¹³ *Id.*

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matters in the September 15, 2004 Executive Resolution.¹⁴ This Court held oral argument for the eleven cases with transferred motions on December 1, 2004. Subsequently, eight more habeas cases were filed on behalf of Guantanamo detainees.¹⁵ Although this Memorandum Opinion addresses issues common to those new cases, counsel in those cases have not yet had the opportunity to fully brief or argue the issues on their own behalf. Accordingly, while the Judges assigned to those cases are free, of course, to adopt the reasoning contained in this Memorandum Opinion in resolving those motions, this Memorandum Opinion technically applies only to the eleven cases contained in the above caption.

II. ANALYSIS

The petitioners in these eleven cases allege that the detention at Guantanamo Bay and the conditions thereof violate a variety of laws. All petitions assert violations of the Fifth Amendment, and a majority claim violations of the Alien Tort Claims Act,¹⁶ the Administrative

¹⁴ As was his prerogative, Judge Richard Leon did not transfer the motions to dismiss in his two Guantanamo cases, Khalid v. Bush, 04-CV-1142 (RJL) and Boumediene v. Bush, 04-CV-1166 (RJL), and this Memorandum Opinion therefore does not apply to those two cases.

¹⁵ Belmar v. Bush, 04-CV-1897 (RMC); Al-Osbi v. Bush, 04-CV-1937 (PLF); Paracha v. Bush, 04-CV-2022 (PLF); Al-Merri v. Bush, 04-CV-2035 (GK); Zemiri v. Bush, 04-CV-2046 (CKK); Deshaves v. Bush, 04-CV-2215 (RMC); MUSIERHA V. BUSH, 05-CV-0022 (JR); and Abdullah v. Bush, 05-CV-0023 (RWR).

¹⁶ 28 U.S.C. § 1350 (1993).

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Procedure Act,¹⁷ and the Geneva Conventions.¹⁸ In addition, certain petitions allege violations of the Sixth, Eighth, and Fourteenth Amendments; the War Powers Clause;¹⁹ the Suspension Clause;²⁰ Army Regulation 190-8, entitled "Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees;" the International Covenant on Civil and Political Rights ("ICCPR");²¹ the American Declaration on the Rights and Duties of Man ("ADRDM");²² the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;²³ the International Labour Organization's Convention 182, Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;²⁴ and customary international law. The respondents contend that none of these provisions constitutes a valid basis for any of the petitioners' claims and seek dismissal of all counts as a matter of law under Fed. R. Civ. P. 12(b)(6) for failing to state a claim upon which relief can be granted. In the alternative, the respondents seek a judgment based on the pleadings pursuant to Fed. R. Civ. P.

¹⁷ 5 U.S.C. §§ 555, 702, 706 (1996).

¹⁸ (Third) Geneva Convention Relative to the Treatment of Prisoners of War of Aug. 12, 1949, 6 U.S.T. 3316; and Fourth Geneva Convention, 1956 WL 54810 (U.S. Treaty), T.I.A.S. No. 3365; 6 U.S.T. 3516.

¹⁹ U.S. Const. art. I, § 8, cl. 11.

²⁰ U.S. Const. art. I, § 9, cl. 2.

²¹ 999 U.N.T.S. 171, 6 I.L.M. 368 (1992), and 102d Cong., 138 Cong. Rec. 54781 (Apr. 2, 1992).

²² O.A.S. Off. Rec. OEA/Ser. LV/II.4 Rev. (1965).

²³ S. Treaty Doc. No. 106-37, 2000 WL 33366017.

²⁴ S. Treaty Doc. No. 106-3, 1999 WL 33292717.

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12(c). The respondents have not requested entry of summary judgment pursuant to Fed. R. Civ. P. 56, and they have opposed requests for discovery made by counsel for the petitioners on the ground that those requests are premature at this stage of the proceedings. See, e.g., Respondents' Memorandum in Opposition to Petitioners' Motion for Leave to Take Discovery and For Preservation Order, filed January 12, 2005, at 6.

In addressing a motion to dismiss for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6), the Court must accept as true all factual allegations contained in a petition and must resolve every factual inference in the petitioner's favor. Sparrow v. United Air Lines, Inc., 216 F.3d 1111, 1113 (D.C. Cir. 2000). The moving party is entitled to dismissal "only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Croixland Properties Ltd. Partnership v. Conoran, 174 F.3d 213, 215 (D.C. Cir. 1999) (quoting Hishon v. King & Spalding, 467 U.S. 69 (1984)). Similarly, in resolving a motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c), the Court must "accept as true the allegations in the opponent's pleadings, and as false all controverted assertions of the movant" and must "accord the benefit of all reasonable inferences to the non-moving party." Haynesworth v. Miller, 820 F.2d 1245, 1249 n.11 (D.C. Cir. 1987).

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A. EXTRATERRITORIAL APPLICATION OF THE CONSTITUTION TO ALIENS

Notwithstanding the Supreme Court's decision in Rasul that the District Court's dismissal of the petitioners' claims was incorrect as a matter of law, the respondents argue in their October 2004 motion that the Rasul decision resolved only whether individuals detained at Guantanamo Bay had the right merely to allege in a United States District Court under the habeas statute that they are being detained in violation of the Constitution and other laws. Respondents argue that the decision was silent on the issue of whether the detainees actually possess any underlying substantive rights, and they further contend that earlier Supreme Court precedent and the law of this Circuit make clear that the detainees do not hold any such substantive rights. Accordingly, it is the respondents' position that although Rasul clarified that a detainee has every right to file papers in the Clerk's Office alleging violations of the Constitution, statutes, treaties and other laws, and although the Court has jurisdiction to accept the filing and to consider those papers, the Court must not permit the case to proceed beyond a declaration that no underlying substantive rights exist. While the Court would have welcomed a clearer declaration in the Rasul opinion regarding the specific constitutional and other substantive rights of the petitioners, it does not interpret the Supreme Court's decision as narrowly as the respondents suggest it should. To the contrary, the Court interprets Rasul, in conjunction with other precedent, to require the recognition that the detainees at Guantanamo Bay possess enforceable constitutional rights.

The significance and scope of the Rasul decision is best understood after a review of earlier case law addressing the applicability of the Constitution outside of the United States and

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to individuals who are not American citizens. At the end of the nineteenth century, the Supreme Court interpreted the Constitution to have no applicability outside of the United States, even to activities undertaken by the United States government with respect to American citizens. In Ross v. McIntyre, 140 U.S. 453, 464 (1891), a habeas case involving a U.S. citizen convicted of murder by an American consular tribunal in Japan, the Court declared, "By the constitution a government is ordained and established 'for the United States of America,' and not for countries outside of their limits. The guarantees it affords . . . apply only to citizens and others within the United States, or who are brought there for trial for alleged offenses committed elsewhere, and not to residents or temporary sojourners abroad. The constitution can have no operation in another country." 140 U.S. at 464 (citing Cook v. United States 138 U.S. 157, 181 (1891)).

The Supreme Court reexamined this broad declaration beginning a decade later and recognized the potential for a more liberal view of the Constitution's applicability outside of the United States in a line of precedent known as the "Insular Cases." One of the earliest of these cases, Dorsey v. Bidwell, 182 U.S. 244 (1901), addressed whether the imposition of duties on products from Puerto Rico after it became a U.S. territory was a violation of the Constitution's Uniformity Clause, which requires that "all duties, imposts, and excises shall be uniform throughout the United States." Art. 1, § 8, cl. 2. As part of its analysis, the Court held that the "unincorporated" territory of Puerto Rico — meaning a territory not destined for statehood — was not part of the "United States" and that, as a result, the imposition of duties on Puerto Rican goods did not violate the Constitution. In dicta, the Court acknowledged that Congress had traditionally interpreted the Constitution to apply to territories "only when and so far as Congress

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shall so direct." 182 U.S. at 278-79. The Court noted the apprehension of "many eminent men" caused by such an interpretation, however, and it described that concern as "a fear lest an unrestrained possession of power on the part of Congress may lead to unjust and oppressive legislation in which the natural rights of territories, or their inhabitants, may be engulfed in a centralized despotism." *Id.* At 280. Significant to the resolution of the cases brought by the Guantanamo detainees, the Court went on to minimize such concern by suggesting that the Constitution prevented Congress from denying inhabitants of unincorporated U.S. territories certain "fundamental" rights, including "the right to personal liberty . . . ; to free access to courts of justice, [and] to due process of law." *Id.* at 282. Because such fundamental rights were not at issue in Dowry v. Bidwell, the Court did not address this concept in greater detail at that time.

Three years later, the Court faced more directly the applicability of the Constitution outside of the United States when it resolved whether the defendant in a criminal libel action in a Philippines court was entitled to a trial by jury under Article III and the Sixth Amendment of the U.S. Constitution. Dorr v. United States, 195 U.S. 138 (1904). At the time of the litigation, the United States had control of the Philippines as an unincorporated territory after the conclusion of the Spanish-American War. Congress, however, had enacted legislation expressly exempting application of the U.S. Constitution to the area. The defendant in that case was prosecuted for libel under the previously existing Spanish system and was not permitted a trial by jury. On appeal, the defendant argued that the right to trial by jury was a "fundamental" right guaranteed by the U.S. Constitution and that Congress did not have the power to deny that right by statute. Although the Court ultimately ruled that the Constitution did not require a right to jury trial in the

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Philippines, it did so only after examining the legal traditions employed in the Philippines prior to annexation as a U.S. territory, the significance of the constitutional right asserted, and the ability of the existing system to accept the burdens of applying new constitutional constraints. In reaching its conclusion that a right to trial by jury was not a "fundamental" right guaranteed outside of the United States, the Court emphasized that the legal system pursuant to which the defendant was prosecuted already provided numerous procedural safeguards, including fact finding by judges, a right of appeal, a right to testify, a right to retain counsel, a right to confront witnesses, a right against self-incrimination, and a right to due process. *Id.* at 145. After suggesting that a large majority of the population would be unfit to serve as jurors, the Court further noted that recognizing a fundamental constitutional right to a jury trial might, in fact, "work injustice and provoke disturbance rather than . . . aid the orderly administration of justice." *Id.* at 148.²³

That holding was reaffirmed in a similar criminal case involving a prosecution for libel in Puerto Rico. *Balzac v. People of Porto Rico*, 258 U.S. 298 (1922).²⁴ Like the defendant in *Dorr*, the defendant in the Puerto Rican case claimed his denial of a jury trial violated Article III and the Sixth Amendment of the U.S. Constitution. Unlike the defendant in *Dorr*, however, the defendant in *Balzac* was a United States citizen. The Court rejected that this distinction held any

²³ At a time critics might call less enlightened, the *Dorr* opinion expressed a fear that further expansion of the application of the Constitution might result in requiring "savages" to serve as jurors. *Id.*

²⁴ Citations to most, if not all, Insular Cases decided during the period between *Dorr* and *Balzac* can be found in *United States v. Pollard*, 209 F. Supp.2d 525, 539 n.17 (D. Virgin Islands 2002), *rev'd*, 326 F.3d 397 (3rd Cir. 2003).

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significance, reiterating that a right to trial by jury was not a "fundamental" right and emphasizing that U.S. citizens had no constitutional right to a trial by jury in a proceeding outside of the United States. As the Court explained, "It is locality that is determinative of the application of the Constitution, in such matters as judicial procedure, and not the status of the people who live in it." 258 U.S. at 309.

A plurality opinion issued by the Supreme Court in Reid v. Covert, 354 U.S. 7 (1957) sharply criticized this portion of the Balzac opinion and argued for the further liberalization of the application of the Constitution outside of the United States. Reid involved two wives charged with the capital murders of their husbands. Both men were soldiers in the United States military and were killed at overseas posts, one in England and the other in Japan. The wives, who were American citizens, were tried and convicted abroad by courts martial under the Uniform Code of Military Justice and subsequently sought habeas relief, arguing that as civilians they were entitled under the Constitution to civilian trials. Initially, a majority of the Court ruled in the Japanese case during the previous term that the guarantees of an indictment by grand jury and subsequent jury trial under the Fifth and Sixth Amendments in a prosecution by the United States government did not apply in foreign lands for acts committed outside the United States. Kinsella v. Krueger, 351 U.S. 470 (1956). Upon further argument and reconsideration the following term, however, the Court overruled its earlier decision, with four Justices subscribing to a plurality opinion and two Justices issuing separate opinions concurring in the result.

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The plurality began its analysis of the issues with the following pronouncement, a marked contrast from the language used a half century earlier in Ross:

At the beginning we reject the idea that when the United States acts against citizens abroad it can do so free of the Bill of Rights. The United States is entirely a creature of the Constitution. Its power and authority have no other source. It can only act in accordance with all the limitations imposed by the Constitution. When the Government reaches out to punish a citizen who is abroad, the shield which the Bill of Rights and other parts of the Constitution provide to protect his life and liberty should not be stripped away just because he happens to be in another land. This is not a novel concept. To the contrary, it is as old as government.

354 U.S. at 5-6 (footnotes omitted). After noting the language of the Fifth Amendment expressly states that "no person" shall be tried for a capital crime without a grand jury indictment and acknowledging that the Sixth Amendment requires that "in all criminal prosecutions" the defendant shall enjoy the right to a speedy and public trial, *id.* at 7, the plurality was critical of the narrower, "fundamental rights" approach taken in the previous Insular Cases, at least as applied to U.S. citizens, and explained, "While it has been suggested that only those constitutional rights which are 'fundamental' protect Americans abroad, we can find no warrant in logic or otherwise, for picking and choosing among the remarkable collection of 'Thou shalt nots' which were explicitly fastened on all departments and agencies of the Federal Government by the Constitution and its Amendments." *Id.* at 8-9. The plurality went on to clarify that the "fundamental" rights approach limiting the full application of the Constitution to territories under U.S. control had been intended to avoid disruption of long established practices and to expedite the carrying out of justice in the insular possessions. *Id.* at 13. Accordingly, the plurality suggested that any further abridgment of constitutional rights under a "fundamental" rights

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approach should not be countenanced. They reasoned, "If our foreign commitments become of such nature that the Government can no longer satisfactorily operate within the bounds laid down by the Constitution, that instrument can be amended by the method which it prescribes." *Id.* at 14.

In his concurring opinion, Justice Harlan, who had voted to deny habeas relief in the case during the previous term, explained that his change of opinion was based on an increased concern about the fact that the underlying crimes for which the defendants were charged were capital offenses. *Id.* at 65. He was careful to emphasize, however, his belief that the Insular Cases still had "vitality," *id.* at 67, and that the precedent remained "good authority for the proposition that there is no rigid rule that jury trial must always be provided in the trial of an American overseas, if the circumstances are such that trial by jury would be impractical and anomalous." *Id.* at 75 (emphasis in the original). Justice Harlan posited further that the types of constitutional rights that should apply overseas depended on "the particular local setting, the practical necessities, and the possible alternatives." *Id.* Agreeing with what Justice Frankfurter wrote in a separately concurring opinion, Justice Harlan commented that the issue was analogous to a due process inquiry in which the courts must look to the particular circumstances of a particular case to determine what constitutional safeguards should apply. *Id.*

Because of the lack of a five Justice majority in Reid, Baltas continues to be interpreted as binding authority. Thus, for example, the Fifth Circuit held that a U.S. citizen charged with distribution of cocaine in the United States District Court for the Canal Zone District at Balboa was not entitled to the nonfundamental rights to a grand jury indictment and to a jury that had the

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potential to include military personnel. Government of the Canal Zone v. Scott, 502 F.2d 566, 568 (5th Cir. 1974) ("non-citizens and citizens of the United States resident in such territories are treated alike, since it is the territorial nature of the Canal Zone and not the citizenship of the defendant that is dispositive"). Indeed, although Reid far from settled the issue of the Constitution's application abroad, it certainly did not weaken the long held doctrine that fundamental constitutional rights cannot be denied in territories under the control of the American government, even where the United States technically is not considered "sovereign" and where the claimant is not a United States citizen.

The District of Columbia Circuit so recognized in a case this Court finds to be particularly relevant to the litigation presently under consideration. Ralphe v. Bell, 569 F.2d 607 (D.C. Cir. 1977), required the application of the Fifth Amendment to U.S. government activities in Micronesia, a "Trust Territory" pursuant to a United Nations designation under which the United States acted as administrator. More specifically, the case involved a constitutional challenge to the procedures undertaken by a commission created by Congress to compensate residents who suffered property damage as a result of American military activities against Japan during World War II. The plaintiff in that case owned a home that had been destroyed by the American offensive, and although the commission ultimately awarded compensation, the commission's valuation of the plaintiff's loss was lower than what he had claimed. More significantly, the valuation was based on evidence that the plaintiff was not permitted to examine or rebut. In addressing whether the Due Process Clause of the Fifth Amendment regulated the commission's valuation procedures, the D.C. Circuit expressly recognized that the United States

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was not technically "sovereign" over Micronesia, 569 F.2d at 619 n.71, and noted that the exact scope of the Constitution's foreign reach was a "matter of some controversy," commenting on the criticism in the *Reid* plurality opinion of the more limited "fundamental" rights approach taken in the *Insular Cases*. *Id.* at 618 & n.69. Nonetheless, the court concluded that at a minimum, due process was a "fundamental" right even with respect to property and that "it is settled that there cannot exist under the American flag any governmental authority untrammelled by the requirements of due process of law." *Id.* at 618-19 (quoting *Galero-Toledo v. Pearson Yacht Leasing Co.*, 416 U.S. 663, 669 n.5 (1974)). Thus, the court required the commission to give the plaintiff access to the evidence upon which its decision relied.¹⁷

The Supreme Court again tried to bring some clarity to the issue of extraterritorial application of the Constitution when it reviewed the legality of the search and seizure by American government officials of items in the Mexican residence of a Mexican citizen charged with various narcotics-related offenses under U.S. law. *United States v. Verdugo-Urquidez*, 494

¹⁷ At least twice since the *Ralpho* decision, the D.C. Circuit recognized the continuing murkiness of whether the Constitution provides protection to noncitizens abroad in cases involving action by American authorities in locales far from the absolute control of the U.S. Congress. *Sanchez-Espinoza v. Reagan*, 770 F.2d 202 (D.C. Cir. 1985), involved a claim by Nicaraguan citizens and residents that the alleged support of the Contras by American government officials violated Fourth and Fifth Amendment rights. The Court of Appeals found it unnecessary to resolve whether the Constitution applied in Nicaragua by concluding that even if it did, other grounds prevented the plaintiffs from recovering the relief they sought. *Id.* at 208. The second case, *United States v. Yunig*, 859 F.2d 953 (D.C. Cir. 1988), involved the seizure and alleged mistreatment of a Lebanese citizen by FBI agents on a boat off the coast of Cyprus. At his trial in District Court for alleged hijacking, the defendant sought the suppression of a confession he provided while in international waters on the ground that his interrogation violated asserted Fifth Amendment rights. Again, the majority avoided the threshold issue of extraterritorial application of the Constitution by accepting a stipulation between the prosecution and defendant that the Fifth Amendment was applicable. *Id.* at 957.

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U.S. 259 (1990). Citing language from Reid that "the Constitution imposes substantive constraints on the Federal Government, even when it operates abroad," the Court of Appeals for the Ninth Circuit had ruled that the Fourth Amendment required the suppression of the evidence gained through the search, notwithstanding its conclusion that a search warrant obtained in the United States would have had no legal validity in Mexico. 856 F.2d 1214, 1218 (9th Cir. 1988). The Supreme Court reversed and began its analysis with a comparison of the language in the Fourth Amendment with the terminology in the Fifth and Sixth Amendments, noting that the Fourth Amendment is written to apply to "the people" while the Fifth and Sixth Amendments protect "person(s)" and the "accused." 494 U.S. at 265-66. The Court interpreted the linguistic differences as evidence that the drafters of the Fourth Amendment intended it to protect the people of the United States rather than to impose restrictions on the government against nonresident aliens. *Id.* at 266.

Perhaps more significant for purposes of these Guantanamo detainee cases, the majority opinion then addressed the Inruler Cases and reaffirmed that in U.S. territories, only "fundamental" constitutional rights are guaranteed. Accordingly, the Court concluded that the ability of noncitizens in foreign countries to invoke Fourth Amendment rights must be even weaker. *Id.* at 268. Citing Johnson v. Eisenberger, 339 U.S. 763 (1950), the Court then declared, "Indeed, we have rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States." 494 U.S. at 269. The Court described its rejection in Eisenberger of the extraterritorial application of the Fifth Amendment as "emphatic," and concluded that if the Fifth Amendment, with the universal term "person," did not apply to aliens

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extraterritorially, then neither should the Fourth Amendment, which applies only to "the people."

Id.

Justice Kennedy joined the majority opinion but also wrote a separate concurring opinion. Minimizing the majority opinion's reliance on the term "the people" as used in the Fourth Amendment, Justice Kennedy preferred to focus on the Insular Cases and *Reid*, giving particular attention to Justice Harlan's concurring opinion. More specifically, Justice Kennedy invoked a contextual due process analysis to resolve the issue, making specific reference to Justice Harlan's comments that there is no rigid and abstract rule that requires Congress to provide all constitutional guarantees overseas where to do so would be "impracticable and anomalous." *Id.* at 277-78 (quoting *Reid*, 334 U.S. at 74). Ultimately, Justice Kennedy concluded that under the facts of the case, it would have been impracticable and anomalous to require the U.S. authorities to obtain a warrant for a search of property in Mexico, citing the lack of Mexican judicial officials to issue such warrants, potentially differing concepts of privacy and what would constitute an "unreasonable" search, and practical difficulties involved in dealing with foreign officials. *Id.* at 278.

So existed the state of relevant constitutional law at the time of Judge Kollar-Kotelly's dismissals of *Ramil Al Odah* and *Habib*. As a technical matter, her dismissals were not based on a finding that the Guantanamo detainees lacked underlying substantive constitutional rights, although the opinion does make brief references to some of the Insular Cases and to the Supreme Court's reference in *Verdugo-Urquidez* to the lack of extraterritorial Fifth Amendment rights. Rather, the District Court dismissed on the basis that it lacked jurisdiction under the habeas

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statute, 28 U.S.C. §§ 2241 and 2242, in light of the Supreme Court's decision in Eisenberger. In that case, the Supreme Court held that federal courts did not have the authority to entertain the habeas claims of German nationals captured in China, convicted of war crimes by a U.S. military commission in China, and serving their sentences in a Landsberg prison, located in Germany but administered by the U.S. military. The crucial aspect of the Eisenberger decision, according to Judge Kollar-Kotelly, was its conclusion that habeas relief could not be granted to individuals in custody outside the sovereign territory of the United States. Her opinion emphasized the importance of the conclusion that the Guantanamo Bay Naval Base is not on sovereign United States territory, and rejected the argument made by counsel for the detainees that under Ralpho v. Bell, de facto sovereignty, rather than de jure sovereignty, was sufficient support for habeas jurisdiction. While recognizing that Micronesia, the location at issue in Ralpho, was not de jure sovereign U.S. territory, the District Court concluded that those islands are much more similar in character and status to sovereign territories than Guantanamo Bay is. According to the District Court, "The military base at Guantanamo Bay, Cuba, is nothing remotely akin to a territory of the United States, where the United States provides certain rights to the inhabitants. Rather, the United States merely leases an area of land for use as a naval base." 215 F. Supp.2d at 71.

In reviewing the District Court's decision dismissing the cases for lack of habeas jurisdiction, the D.C. Circuit took a somewhat different approach, relying more heavily than the District Court on an analysis of the substantive constitutional rights upon which the detainees' petitions were based. The D.C. Circuit interpreted Eisenberger to characterize the right to a writ of habeas corpus as a "subsidiary procedural right that follows from the possession of substantive

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constitutional rights." 321 F.3d at 1140 (quoting Eisenberger, 339 U.S. at 781). Further noting that Eisenberger rejected the proposition "that the Fifth Amendment confers rights upon all persons, whatever their nationality, wherever they are located and whatever their offenses." *id.* the Court of Appeals then commented that this language "may be read to mean that the constitutional rights mentioned are not held by aliens outside the sovereign territory of the United States, regardless of whether they are enemy aliens." *Id.* at 1140-41. Invoking the language in Verdugo-Urquidez, the Eisenberger "rejected the claim that aliens are entitled to Fifth Amendment rights outside the sovereign territory of the United States" and that such rejection in Eisenberger was "emphatic," the Court of Appeals then noted its previous reliance on Verdugo-Urquidez and Eisenberger in earlier cases that made clear that "[t]he law of the circuit now is that a 'foreign entity without property or presence in this country has no constitutional rights, under the due process clause or otherwise.'" *Id.* at 1141 (quoting People's Mojahedin Org. v. Dep't of State, 182 F.3d 17, 22 (D.C. Cir. 1999), and also citing Harbury v. Dench, 233 F.3d 596 (D.C. Cir. 2000), *rev'd sub nom. Christopher v. Harbury*, 536 U.S. 403 (2002); Pauling v. McElroy, 278 F.2d 252 (D.C. Cir. 1960); and 32 County Sovereignty Comm. v. Dep't of State, 292 F.3d 797 (D.C. Cir. 2002)). Emphasizing that Guantanamo Bay was not part of sovereign U.S. territory and rejecting any material significance to the U.S. government's practical control over the area, the court thus concluded in Aj Odah:

The consequence is that no court in this country has jurisdiction to grant habeas relief, under 28 U.S.C. § 2241, to the Guantanamo detainees, even if they have not been adjudicated enemies of the United States. We cannot see why, or how, the writ may be made available to aliens abroad when basic constitutional protections are not. This much is at the heart of Eisenberger. If the Constitution does not entitle the detainees to due process, and it does not, they cannot invoke

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the jurisdiction of our courts to test the constitutionality or the legality of restraints on their liberty. Eisenberger itself directly tied jurisdiction to the extension of constitutional provisions

Id. at 1141.

The D.C. Circuit's decision was reversed in Rasul v. Bush, ___ U.S. ___, 124 S. Ct. 2686 (2004). In reviewing the decision of the Court of Appeals, the majority opinion addressed two grounds upon which a detainee traditionally could assert a right to habeas relief: statutory and constitutional. The Rasul majority interpreted Eisenberger to have focused primarily on the German detainees' lack of a constitutional right to habeas review, and distinguished the material facts upon which that portion of the Eisenberger decision relied from the circumstances concerning the Guantanamo Bay detainees. Among other distinguishing facts, the Rasul opinion emphasized that the Guantanamo Bay detainees were not citizens of countries formally at war with the United States, denied committing any war crimes or other violent acts, were never charged or convicted of wrongdoing, and – most significant to the present motion to dismiss – are imprisoned in “territory over which the United States exercises exclusive jurisdiction and control.” 124 S. Ct. at 2693. Next, Rasul turned to the issue of statutory habeas jurisdiction and ruled that post-Eisenberger precedent required the recognition of statutory jurisdiction even over cases brought by petitioners held outside the territorial jurisdiction of any federal district court. Noting that the habeas statute made no distinction between citizens and aliens held in federal custody, the Court ultimately ruled that “[a]liens held at the base, no less than American citizens, are entitled to invoke the federal courts' authority under § 2241.” *Id.* at 2696.

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While conceding as they must in light of the Rasul decision that this Court has habeas jurisdiction over these cases, the respondents assert in their current motion to dismiss that the Supreme Court did not grant certiorari to review the D.C. Circuit's decision that the Guantanamo Bay detainees have no underlying constitutional rights. Accordingly, the respondents argue, the D.C. Circuit's pronouncement in Al Odah that the detainees lack substantive rights is still binding on this Court and the portions of the petitions invoking the Constitution must be dismissed for failure to state a claim upon which relief can be granted. Counsel for the petitioners, on the other hand, assert that in upholding this Court's habeas jurisdiction, the Supreme Court also made clear that the Constitution applies to Guantanamo Bay and that the detainees possess substantive constitutional rights. This Court finds the arguments made on behalf of the petitioners in this regard far more persuasive.

As an initial matter, the conclusion that the D.C. Circuit's holding on lack of substantive constitutional rights is no longer the law of the case could be deduced merely from the facts that: (1) the appellate court's opinion emphasized that the existence of habeas jurisdiction and substantive constitutional rights were "directly tied," 321 F.3d at 1141; (2) the appellate court believed Eisenberger applied to the facts of these cases and prevented the detainees from asserting substantive constitutional rights; and (3) the Supreme Court held that habeas jurisdiction did in fact exist and that Eisenberger was inapplicable to these cases. Additionally, and on a more detailed level, careful examination of the specific language used in Rasul reveals an implicit, if not express, mandate to uphold the existence of fundamental rights through application of precedent from the Insular Cases.

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On appeal to the D.C. Circuit, counsel for the petitioners argued for the application of Ralpho v. Bell by challenging the District Court's finding that Guantanamo Bay was simply another naval base on land leased from a foreign sovereign and nowhere near the legal equivalent of a United States territory. 215 F. Supp.2d at 71. The D.C. Circuit rejected the challenge and agreed with the District Court on this point. Although the appellate court conceded that Micronesia, like Guantanamo Bay, was not technically sovereign U.S. territory, it concluded that Ralpho nonetheless did not "justify this court, or any other, to assert habeas corpus jurisdiction at the behest of an alien held at a military base leased from another nation." 321 F.3d at 1144. Instead, the appellate court found Landsberg prison in Germany to be a more suitable analogy, and because Eisenberg held that no constitutional rights existed there, the D.C. Circuit concluded that no constitutional rights could exist at Guantanamo Bay. Rezul, however, unequivocally rejected the D.C. Circuit's analogy and made clear that Guantanamo Bay cannot be considered a typical overseas military base.

In his concurring opinion in Rezul, Justice Kennedy unambiguously repudiated the D.C. Circuit's analogy of Guantanamo Bay to Landsberg prison, and he made a Ralpho-type conclusion that Guantanamo Bay was, for all significant purposes, the equivalent of sovereign U.S. territory. He explained:

Guantanamo Bay is in every practical respect a United States territory, and it is one far removed from any hostilities. . . . [The Guantanamo Bay lease] is no ordinary lease. Its term is indefinite and at the discretion of the United States. What matters is the unchallenged and indefinite control that the United States has long exercised over Guantanamo Bay. From a practical perspective, the indefinite lease of Guantanamo Bay has produced a place that belongs to the United States, extending the "implied protection" of the United States to it.

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Id. at 2700 (Kennedy, J., concurring) (citing Eisentrager, 339 U.S. at 777-78). Although the majority opinion was not as explicit as Justice Kennedy's concurrence, it too found significant the territorial nature of Guantanamo Bay and dismissed the D.C. Circuit's characterization of Guantanamo Bay as nothing more than a foreign military prison. For example, in refusing the application of Eisentrager's constitutional analysis to these cases, the majority took special note that, unlike the German prisoners, the Guantanamo detainees "have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control." 124 S. Ct. at 2692. Additionally, in rejecting an argument made by respondents that applying the habeas statute to prisoners at Guantanamo Bay would violate a canon of statutory interpretation against extraterritorial application of legislation, the majority wrote:

Whatever traction the presumption against extraterritoriality might have in other contexts, it certainly has no application to the operation of the habeas statute with respect to persons detained within the "territorial jurisdiction" of the United States. . . . By the express terms of its agreements with Cuba, the United States exercises "complete jurisdiction and control" over the Guantanamo Bay Naval Base, and may continue to exercise such control permanently if it so chooses.

124 S. Ct. at 2696 (citing Foley Bros., Inc. v. Filardo, 336 U.S. 281, 285 (1949), in which the Court refused to interpret a statute mandating an eight hour work day to have application to an American citizen working for a contractor in Iran and Iraq absent evidence that the "United States had been granted by the respective sovereignties any authority, legislative or otherwise, over the labor laws or customs of Iran or Iraq.").

These passages alone would be sufficient for this Court to recognize the special nature of Guantanamo Bay and, in accordance with Ralpho v. Bell, to treat it as the equivalent of sovereign U.S. territory where fundamental constitutional rights exist. But perhaps the strongest basis for

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recognizing that the detainees have fundamental rights to due process rests at the conclusion of the Rasul majority opinion. In summarizing the nature of these actions, the Court recognized:

Petitioners' allegations -- that, although they have engaged neither in combat nor in acts of terrorism against the United States, they have been held in Executive detention for more than two years in territory subject to the long-term, exclusive jurisdiction and control of the United States, without access to counsel and without being charged with any wrongdoing -- unquestionably describe "custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Cf. United States v. Verdugo-Urquidez, 494 U.S. 259, 277-278, 110 S. Ct. 1056, 108 L.Ed.2d 222 (1990) (Kennedy, J., concurring), and cases cited therein.

124 S. Ct. at 2698 n.15. This comment stands in sharp contrast to the declaration in Verdugo-Urquidez relied upon by the D.C. Circuit in Al Odah that the Supreme Court's "rejection of extraterritorial application of the Fifth Amendment [has been] emphatic." 494 U.S. at 269. Given the Rasul majority's careful scrutiny of Eisenberger, it is difficult to imagine that the Justices would have remarked that the petitions "unquestionably describe 'custody in violation of the Constitution or laws or treaties of the United States'" unless they considered the petitioners to be within a territory in which constitutional rights are guaranteed. Indeed, had the Supreme Court intended to uphold the D.C. Circuit's rejection in Al Odah of underlying constitutional rights, it is reasonable to assume that the majority would have included in its opinion at least a brief statement to that effect, rather than delay the ultimate resolution of this litigation and require the expenditure of additional judicial resources in the lower courts. To the contrary, rather than citing Eisenberger or even the portion of Verdugo-Urquidez that referenced the "emphatic" inapplicability of the Fifth Amendment to aliens outside U.S. territory, the Rasul Court specifically referenced the portion of Justice Kennedy's concurring opinion in Verdugo-Urquidez that discussed the continuing validity of the Insular Cases, Justice Harlan's concurring

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opinion in Reid v. Covert, and Justice Kennedy's own consideration of whether requiring adherence to constitutional rights outside of the United States would be "impracticable and anomalous." This Court therefore interprets that portion of the opinion to require consideration of that precedent in the determination of the underlying rights of the detainees.

There would be nothing impracticable and anomalous in recognizing that the detainees at Guantanamo Bay have the fundamental right to due process of law under the Fifth Amendment. Recognizing the existence of that right at the Naval Base would not cause the United States government any more hardship than would recognizing the existence of constitutional rights of the detainees had they been held within the continental United States. American authorities are in full control at Guantanamo Bay, their activities are immune from Cuban law, and there are few or no significant remnants of native Cuban culture or tradition remaining that can interfere with the implementation of an American system of justice.²⁸ The situation in these cases is very different from the circumstances in Verdugo-Uruidez, where the defendant claimed the United States government was required to get a warrant to perform a search in Mexico, a sovereign country that employs an entirely different legal system, lacks officials to issue warrants, and has potentially different concepts of privacy. Similarly, the imposition of constitutional rights would be less difficult at Guantanamo Bay than it was in any of the Insular Cases, where the courts were

²⁸ Ironically, the Cuban government has alleged that the U.S. military is violating the human rights of the detainees at Guantanamo Bay and has demanded more humane treatment of the prisoners. The U.S. government, however, does not appear to have conceded the Cuban government's sovereignty over these matters. See What's News, The Wall Street Journal, Jan. 20, 2005, at A1 (2005 WL 59838437); Cuba Demands US Stop Alleged Abuses at "Illegally Occupied" Guantanamo Base, Agence France Presse, Jan. 19, 2005 (2005 WL 69517025).

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required to determine whether imposition of American rights such as the right to trial by jury and indictment by grand jury were even possible in places such as the Philippines and Puerto Rico with native legal systems and populations previously unexposed to American jurisprudence.

Of course, it would be far easier for the government to prosecute the war on terrorism if it could imprison all suspected "enemy combatants" at Guantanamo Bay without having to acknowledge and respect any constitutional rights of detainees. That, however, is not the relevant legal test. By definition, constitutional limitations often, if not always, burden the abilities of government officials to serve their constituencies. Although this nation unquestionably must take strong action under the leadership of the Commander in Chief to protect itself against enormous and unprecedented threats, that necessity cannot negate the existence of the most basic fundamental rights for which the people of this country have fought and died for well over two hundred years. As articulated by the Supreme Court after the conclusion of the Civil War:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government, within the Constitution, has all the powers granted to it, which are necessary to preserve its existence; as has been happily proved by the result of the great effort to throw off its just authority.

Ex Parte Milligan, 71 U.S. 2, 120-21 (1866). See also United States v. Robel, 389 U.S. 258, 264

(1967) ("It would indeed be ironic if, in the name of national defense, we would sanction the subversion of one of those liberties . . . which makes the defense of the Nation worthwhile.").

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In sum, there can be no question that the Fifth Amendment right asserted by the Guantanamo detainees in this litigation – the right not to be deprived of liberty without due process of law – is one of the most fundamental rights recognized by the U.S. Constitution. In light of the Supreme Court's decision in Rasul, it is clear that Guantanamo Bay must be considered the equivalent of a U.S. territory in which fundamental constitutional rights apply. Accordingly, and under the precedent set forth in Verdugo-Urquidez, Rafaga, and the earlier Insular Cases, the respondents' contention that the Guantanamo detainees have no constitutional rights is rejected, and the Court recognizes the detainees' rights under the Due Process Clause of the Fifth Amendment.

B. SPECIFIC REQUIREMENTS OF THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE

Having found that the Guantanamo detainees are entitled to due process under the Fifth Amendment to the United States Constitution, the Court must now address the exact contours of that right as it applies to the government's determinations that they are "enemy combatants." Due process is an inherently flexible concept, and the specific process due in a particular circumstance depends upon the context in which the right is asserted. Morrissey v. Brewer, 408 U.S. 471, 481 (1972). Resolution of a due process challenge requires the consideration and weighing of three factors: the private interest of the person asserting the lack of due process; the risk of erroneous deprivation of that interest through use of existing procedures and the probable value of additional or substitute procedural safeguards; and the competing interests of the

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government, including the financial, administrative, and other burdens that would be incurred were additional safeguards to be provided. Mathews v. Eldridge, 424 U.S. 319, 335 (1976).

The Supreme Court applied a Mathews v. Eldridge analysis in Hamdi v. Rumsfeld, ___ U.S. ___, 124 S. Ct. 2633 (2004), a decision issued the same day as Rasul which considered an American citizen's due process challenge to the U.S. military's designation of him as an "enemy combatant." Although none of the detainees in the cases before this Court is an American citizen, the facts under Hamdi are otherwise identical in all material respects to those in Rasul. Accordingly, Hamdi forms both the starting point and core of this Court's consideration of what process is due to the Guantanamo detainees in these cases.

In addressing the detainees's private interest in Hamdi for purposes of the Mathews v. Eldridge analysis, the plurality opinion called it "the most elemental of liberty interests - the interest in being free from physical detention by one's own government." 124 S. Ct. at 2646. Although the detainees in the cases before this Court are aliens and are therefore not being detained by their own governments, that fact does not lessen the significance of their interests in freedom from incarceration and from being held virtually incommunicado from the outside world. There is no practical difference between incarceration at the hands of one's own government and incarceration at the hands of a foreign government; significant liberty is deprived in both situations regardless of the jailer's nationality.

As was the case in Hamdi, the potential length of incarceration is highly relevant to the weighing of the individual interests at stake here. The government asserts the right to detain an "enemy combatant" until the war on terrorism has concluded or until the Executive, in its sole

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discretion, has determined that the individual no longer poses a threat to national security. The government, however, has been unable to inform the Court how long it believes the war on terrorism will last. See December 1, 2004 Transcript of Motion to Dismiss (hereinafter "Transcript") at 22-23. Indeed, the government cannot even articulate at this moment how it will determine when the war on terrorism has ended. *Id.* at 24. At a minimum, the government has conceded that the war could last several generations, thereby making it possible, if not likely, that "enemy combatants" will be subject to terms of life imprisonment at Guantanamo Bay. *Id.* at 21; *Hamdi*, 124 S. Ct. at 2641. Short of the death penalty, life imprisonment is the ultimate deprivation of liberty, and the uncertainty of whether the war on terror – and thus the period of incarceration – will last a lifetime may be even worse than if the detainees had been tried, convicted, and definitively sentenced to a fixed term.

It must be added that the liberty interests of the detainees cannot be minimized for purposes of applying the *Mathews v. Eldridge* balancing test by the government's allegations that they are in fact terrorists or are affiliated with terrorist organizations. The purpose of imposing a due process requirement is to prevent mistaken characterizations and erroneous detentions, and the government is not entitled to short circuit this inquiry by claiming *ab initio* that the individuals are alleged to have committed bad acts. See *Hamdi*, 124 S. Ct. at 2647 ("our starting point for the *Mathews v. Eldridge* analysis is unaltered by the allegations surrounding the particular detainee or the organizations with which he is alleged to have associated"). Moreover, all petitioners in these cases have asserted that they are not terrorists and have not been involved in terrorist activities, and under the standards provided by the applicable rules of procedure, those

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allegations must be accepted as true for purposes of resolving the government's motion to dismiss.

On the other side of the Mathews v. Eldridge analysis is the government's significant interest in safeguarding national security. Having served as the Chief Judge of the United States Foreign Intelligence Surveillance Court (also known as "the FISA Court"), the focus of which involves national security and international terrorism,²⁰ this Judge is keenly aware of the determined efforts of terrorist groups and others to attack this country and to harm American citizens both at home and abroad. Utmost vigilance is crucial for the protection of the United States of America. Of course, one of the government's most important obligations is to safeguard this country and its citizens by ensuring that those who have brought harm upon U.S. interests are not permitted to do so again. Congress itself expressly recognized this when it enacted the AUMF authorizing the President to use all necessary and appropriate force against those responsible for the September 11 attacks. The Supreme Court also gave significant weight to this governmental concern and responsibility in Hamdi when it addressed the "interests in ensuring that those who have in fact fought with the enemy during a war do not return to battle against the United States." 124 S. Ct. at 2647. The plurality warned against naivete regarding the dangers posed to the United States by terrorists and noted that the legislative and executive branches were in the best positions to deal with those dangers. As articulated by the plurality, "[T]he law of war and the realities of combat may render . . . detentions both necessary and appropriate, and our due process analysis need not blink at those realities. Without doubt, our

²⁰ See 50 U.S.C. § 1803 (2003).

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Constitution recognizes that core strategic matters of warrmaking belong in the hands of those who are best positioned and most politically accountable for making them." *Id.* Indeed, a majority of the Court affirmed the Executive's authority to seize and detain Taliban fighters as long as the conflict in Afghanistan continues, regardless of how indefinite the length of that war may be. *See* the plurality opinion, *id.* at 2641-42, and the dissenting opinion of Justice Thomas, *id.* at 2674.

Given the existence of competing, highly significant interests on both sides of the equation - the liberty of individuals asserting complete innocence of any terrorist activity versus the obligation of the government to protect this country against terrorist attacks - the question becomes what procedures will help ensure that innocents are not indefinitely held as "enemy combatants" without imposing undue burdens on the military to ensure the security of this nation and its citizens. The four member *Hamdi* plurality answered this question in some detail, and although the two concurring members of the Court, Justice Souter and Justice Ginsburg, emphasized a different basis for ruling in favor of Mr. Hamdi, they indicated their agreement that, at a minimum, he was entitled to the procedural protections set forth by the plurality. *Id.* at 2660.

According to the plurality in *Hamdi*, an individual detained by the government on the ground that he is an "enemy combatant" "must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." *Id.* at 2648. Noting the potential burden these requirements might cause the government at a time of ongoing military conflict, the plurality stated that it would not violate

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due process for the decision maker to consider hearsay as the most reliable available evidence. *Id.* at 2649. In addition, the plurality declared it permissible to adopt a presumption in favor of "enemy combatant" status, "as long as that presumption remained a rebuttable one and fair opportunity for rebuttal were provided." *Id.* For that presumption to apply and for the onus to shift to the detainee, however, the plurality clarified that the government first would have to "put[] forth credible evidence that the [detainee] meets the enemy-combatant criteria." *Id.*²⁰

After setting forth these standards, the plurality suggested the "possibility" that constitutional requirements of due process could be met by an "appropriately authorized and properly constituted military tribunal" and referenced the military tribunals used to determine whether an individual is entitled to prisoner of war status under the Geneva Convention. *Id.* at 2651 (citing *Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees*, Army Regulation 190-8, § 1-6 (1997)). In the absence of a tribunal following constitutionally mandated procedures, however, the plurality declared that it was the District Court's obligation to provide those procedural rights to the detainee in a *habeas* action. Again recognizing the enormous significance of the interests of both detainees and the government, the plurality affirmed the proper role of the judiciary in these matters, stating "We have no reason to doubt that courts faced with these sensitive matters will pay proper heed both to the matters of national security that might arise in an individual case and to the constitutional limitations

²⁰ Justice Souter, whose opinion was joined by Justice Ginsburg, indicated he did not believe that such a presumption was constitutionally permissible when he wrote, "I do not mean to imply agreement that the Government could claim an evidentiary presumption casting the burden of rebuttal on [the detainee]." *Id.* at 2660.

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safeguarding essential liberties that remain vibrant even in times of security concerns." *Id.* at 2652. The plurality concluded by affirming that the detainee "unquestionably [had] the right to access to counsel in connection with the proceedings on remand." *Id.*

Hamdi was decided before the creation of the Combatant Status Review Tribunal, and the respondents contend in their motion to dismiss that were this Court to conclude that the detainees are entitled to due process under the Fifth Amendment, the CSRT proceedings would fully

~~comply with all constitutional requirements. More specifically, the respondents claim that the~~
CSRT regulations were modeled after Army Regulation 190-8 governing the determination of prisoner of war status, referenced in Hamdi, and actually exceed the requirements set forth by the Hamdi plurality. For example, respondents cite the facts that under CSRT rules, tribunal members must certify that they have not been involved in the "apprehension, detention, interrogation, or previous determination of status of the detainee[s]," that detainees are provided a "Personal Representative" to assist in the preparation of their cases, that the "Recorder" – that is, the person who presents evidence in support of "enemy combatant" status – must search for exculpatory evidence, that the detainee is entitled to an unclassified summary of the evidence against him, and that the tribunal's decisions are reviewed by a higher authority. Motion to Dismiss at 34-35. Notwithstanding the procedures cited by the respondents, the Court finds that the procedures provided in the CSRT regulations fail to satisfy constitutional due process requirements in several respects.

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C. SPECIFIC CONSTITUTIONAL DEFECTS IN THE CSRT PROCESS AS WRITTEN IN THE REGULATIONS AND AS APPLIED TO THE DETAINEES

The constitutional defects in the CSRT procedures can be separated into two categories. The first category consists of defects which apply across the board to all detainees in the cases before this Judge. Specifically, those deficiencies are the CSRT's failure to provide the detainees with access to material evidence upon which the tribunal affirmed their "enemy combatant" status and the failure to permit the assistance of counsel to compensate for the government's refusal to disclose classified information directly to the detainees. The second category of defects involves those which are detainee specific and may or may not apply to every petitioner in this litigation. Those defects include the manner in which the CSRT handled accusations of torture and the vague and potentially overbroad definition of "enemy combatant" in the CSRT regulations. While additional specific defects may or may not exist, further inquiry is unnecessary at this stage of the litigation given the fundamental deficiencies detailed below.

1. General Defects Existing in All Cases Before the Court: Failure to Provide Detainees Access to Material Evidence Upon Which the CSRT Affirmed "Enemy Combatant" Status and Failure to Permit the Assistance of Counsel

The CSRT reviewed classified information when considering whether each detainee presently before this Court should be considered an "enemy combatant," and it appears that all of the CSRT's decisions substantially relied upon classified evidence. No detainee, however, was ever permitted access to any classified information nor was any detainee permitted to have an advocate review and challenge the classified evidence on his behalf. Accordingly, the CSRT

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failed to provide any detainee with sufficient notice of the factual basis for which he is being detained and with a fair opportunity to rebut the government's evidence supporting the determination that he is an "enemy combatant."

The inherent lack of fairness of the CSRT's consideration of classified information not disclosed to the detainees is perhaps most vividly illustrated in the following unclassified colloquy, which, though taken from a case not presently before this Judge, exemplifies the practical and severe disadvantages faced by all Guantanamo prisoners. In reading a list of allegations forming the basis for the detention of Mustafa Ait Idr,³¹ a petitioner in Boymedine v. Bush, 04-CV-1166 (R.JL), the Recorder of the CSRT asserted, "While living in Bosnia, the Detainee associated with a known Al Qaida operative." In response, the following exchange occurred:

Detainee: Give me his name.

Tribunal President: I do not know.

Detainee: How can I respond to this?

Tribunal President: Did you know of anybody that was a member of Al Qaida?

Detainee: No, no.

Tribunal President: I'm sorry, what was your response?

Detainee: No.

Tribunal President: No?

³¹ Although the petition for writ of habeas corpus filed on behalf of this detainee and related documents refer to him as "Mustafa Ait Idr," the proper spelling of his name appears to be "Mustafa Ait Idr."

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Detainee: No. This is something the interrogators told me a long while ago. I asked the interrogators to tell me who this person was. Then I could tell you if I might have known this person, but not if this person is a terrorist. Maybe I knew this person as a friend. Maybe it was a person that worked with me. Maybe it was a person that was on my team. But I do not know if this person is Bosnian, Indian or whatever. If you tell me the name, then I can respond and defend myself against this accusation.

Tribunal President: We are asking you the questions and we need you to respond to what is on the unclassified summary.

Respondents' Factual Return to Petition for Writ of Habeas Corpus by Petitioner Mustafa Ait

Idir, filed October 27, 2004, Enclosure (3) at 13. Subsequently, after the Recorder read the

allegation that the detainee was arrested because of his alleged involvement in a plan to attack the U.S. Embassy in Sarajevo, the detainee expressly asked in the following colloquy to see the evidence upon which the government's assertion relied:

Detainee: . . . The only thing I can tell you is I did not plan or even think of [attacking the Embassy]. Did you find any explosives with me? Any weapons? Did you find me in front of the embassy? Did you find me in contact with the Americans? Did I threaten anyone? I am prepared now to tell you, if you have anything or any evidence, even if it is just very little, that proves I went to the embassy and looked like that [Detainee made a gesture with his head and neck as if he were looking into a building or a window] at the embassy, then I am ready to be punished. I can just tell you that I did not plan anything. Point by point, when we get to the point that I am associated with Al Qaida, but we already did that one.

Recorder: It was [the] statement that preceded the first point.

Detainee: If it is the same point, but I do not want to repeat myself. These accusations, my answer to all of them is I did not do these things. But I do not have anything to prove this. The only thing is the citizenship. I can tell you where I was and I had the papers to prove so. But to tell me I planned to bomb, I can only tell you that I did not plan.

Tribunal President: Mustafa, does that conclude your statement?

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Detainee: That is it, but I was hoping you had evidence that you can give me. If I was in your place – and I apologize in advance for these words – but if a supervisor came to me and showed me accusations like these, I would take these accusations and I would hit him in the face with them. Sorry about that.

[Everyone in the Tribunal room laughs.]

Tribunal President: We had to laugh, but it is okay.

Detainee: Why? Because these are accusations that I can't even answer. I am not able to answer them. You tell me I am from Al Qaeda, but I am not an Al Qaeda. I don't have any proof to give you except to ask you to catch Bin Laden and ask him if I am a part of Al Qaeda. To tell me that I thought, I'll just tell you that I did not. I don't have proof regarding this. What should be done is you should give me evidence regarding these accusations because I am not able to give you any evidence. I can just tell you no, and that is it.

Id. at 14-15. The laughter reflected in the transcript is understandable, and this exchange might have been truly humorous had the consequences of the detainee's "enemy combatant" status not been so terribly serious and had the detainee's criticism of the process not been so piercingly accurate.²²

Another illustration of the fundamental unfairness of the CSRT's reliance on classified information not disclosed to the detainees arises in the government's classified factual return to the petition filed by Murat Kurnaz in Kurnaz v. Bush, 04-CV-1135 (ESH). Mr. Kurnaz is a Turkish citizen and permanent resident of Germany who was arrested by police in Pakistan and turned over to American authorities. The CSRT concluded that he was a member of al Qaeda

²² This is not to say whether or not the government was able to present any inculpatory evidence during the CSRT proceeding against the detainee. The primary purpose of the Memorandum Opinion's reference to the transcript at this stage of the litigation is to illustrate the detainees' lack of any reasonable opportunity to confront the government's evidence against them and not to resolve whether or not this particular detainee did in fact plan to attack the U.S. Embassy.

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