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Verbatim Transcript of Open Session Combatant Status Review Tribunal Hearing for ISN 10021

OPENING

RECORDER: All rise.

PRESIDENT: This hearing shall come to order. Please be seated.

RECORDER: This Tribunal is being conducted at time 0815 on 13 March 2007 on board U.S. Naval Base Guantanamo Bay, Cuba. The following personnel are present:

Colonel [REDACTED], United States Air Force, President,
Lieutenant Colonel [REDACTED], United States Air Force, Member,
Commander [REDACTED], United States Navy, Member,
Lieutenant Commander [REDACTED], United States Navy, Personal Representative,
Mister [REDACTED], Translator,
Sergeant First Class [REDACTED], United States Army, Reporter,
Lieutenant Commander [REDACTED], United States Navy, Recorder.
Lieutenant Colonel [REDACTED], is the Judge Advocate member of the Tribunal.

OATH SESSION 1

RECORDER: All Rise.

PRESIDENT: The Recorder will be sworn. Do you, Lieutenant Commander [REDACTED], swear or affirm that you will faithfully perform the duties as Recorder assigned in this Tribunal so help you God?

RECORDER: I do.

PRESIDENT: The Reporter will now be sworn. The Recorder will administer the oath.

RECORDER: Do you Sergeant First Class [REDACTED], swear that you will faithfully discharge your duties as Reporter assigned in this Tribunal so help you God?

REPORTER: I do.

PRESIDENT: The translator will be sworn.

RECORDER: Do you swear that you will faithfully perform the duties as translator in the case now in hearing so help you God?

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TRANSLATOR: I do.

PRESIDENT: We will take a brief recess while the Detainee is brought into the room.

RECORDER: The time is 0816 on 13 March 2007. The Tribunal is now in recess. [The Tribunal withdrew from the hearing room].

CONVENING AUTHORITY

RECORDER: All rise. [The Tribunal entered the hearing room at 0823 hours, 13 March 2007].

PRESIDENT: This hearing will come to order. You may be seated.
Good morning. This Tribunal is convened by order of the Director, Combat - Combatant Status Review Tribunals under the provisions of his Order of 12 February 2007. This Tribunal will determine whether (ph.) MO-HA-MED FARIK BIN AMIN ZUBAIR, meets the criteria to be designated as an enemy combatant against the United States or its coalition partners or otherwise meets the criteria to be designated as an enemy combatant.

OATH SESSION 2

PRESIDENT: The members of this Tribunal shall now be sworn. All rise.

RECORDER: Do you swear that you will faithfully perform your duties as a member of this Tribunal; that you will impartially examine and inquire into the matter now before you according to your conscience, and the laws and regulations provided; that you will make such findings of fact and conclusions as are supported by the evidence presented; that in determining those facts, you will use your professional knowledge, best judgment, and common sense; and that you will make such findings as are appropriate according to the best of your understanding of the rules, regulations, and laws governing this proceeding, and guided by your concept of justice so help you God?

TRIBUNAL: I do.

PRESIDENT: The Recorder will now administer the oath to the Personal Representative.

RECORDER: Do you swear that you will faithfully perform the duties of Personal Representative in this Tribunal so help you God?

PERSONAL REP: I do.

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EXPLANATION OF PROCEEDINGS

PRESIDENT: Please be seated. The Recorder, Reporter, and Translator have been previously sworn. Mr. ZUBAIR, you are hereby advised the following applies during this hearing: You may be present at all open sessions of the Tribunal. However, if you become disorderly, you will be removed from the hearing, and the Tribunal will continue to hear evidence in your absence. You may not be compelled to testify at this Tribunal. However, you may testify if you wish to do so. Your testimony can be under oath or not under oath. You may have the assistance of a Personal Representative at the hearing. Your assigned Personal Representative is present. You may present evidence to this Tribunal, including the testimony of witnesses who are reasonably available and whose testimony is relevant to this hearing. You may question witnesses testifying at the Tribunal. You may examine documents or statements offered into evidence other than classified information. However, certain documents may be partially masked for security reasons. Mr. ZUBAIR, do you understand this process?

DETAINEE: Yes. [Detainee said "yes" in a very low voice and nodded his head in an up and down movement].

PRESIDENT: Do you have any questions concerning this Tribunal process?

DETAINEE: No. [Detainee said "no" in a very low voice and turned his head in a side to side movement to further indicate a negative answer].

PRESIDENT: Okay, understand. Ah- I will make a noted point of this re--ah-- Tribunal session that ah- you have the assistance of a Translator at any time that you have questions. You may raise your hand and ah-- we can offer assistance with the Translator or through myself at any time.

PRESENTATION OF UNCLASSIFIED INFORMATION

PRESIDENT: Personal Representative, please provide the Tribunal with the Detainee Election Form.

PERSONAL REP: I am handing the Tribunal the Detainee Election Form, which was previously marked as Exhibit Delta-Alpha.

RECORDER PRESENTS UNCLASSIFIED

PRESIDENT: Recorder, please provide the Tribunal with the unclassified evidence.

RECORDER: I am handing the Tribunal what has previously been marked as Exhibit R-1, the unclassified summary of the evidence that relates to this Detainee's

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status as an enemy combatant. A translated copy of this exhibit was provided to the Personal Representative in advance of this hearing for presentation to the Detainee. In addition, I am handing to the Tribunal the following unclassified exhibits, marked as Exhibits R-2 through R-3. Copies of these Exhibits have previously been provided to the Personal Representative.

PRESIDENT: Recorder, please read the unclassified summary of evidence for the record. Before you proceed, let me remind the Detainee that he must not comment on this evidence at this time. The Detainee will be provided an opportunity to provide comments shortly. Recorder, please proceed.

RECORDER: The following facts support the determination that the Detainee is an enemy combatant. a. The Detainee was identified by an al Qaida operative as a member of an al Qaida suicide team that was to participate in a plan to attack a building in the United States. b. According to the Federal Bureau of Investigation, on 5 August 2003, a large vehicle bomb detonated outside the J.W. Marriott hotel in Jakarta, Indonesia. Twelve persons were killed and 144 people were injured, including two United States citizens. c. An Indonesian national police investigation, supported by the Federal Bureau of Investigation and other law enforcement agencies, revealed the -- united-- J.W. Marriott hotel bombing was planned and executed by members of the Southeast Asian terrorist group Jemaah Islamiya, a group known to have solicited and received the support and guidance of al Qaida for terrorist activities in Southeast Asia. d. According to the Department of Homeland Security, Terrorist Organization Reference Guide, Jemaah Islamiya (JI) is a Southeast Asian terrorist network with links to al Qaida. The network plotted in secrecy through the late 1990s, following the stated goal of creating an idealized Islamic state comprising Indonesia, Malaysia, Singapore, the southern Philippines, and southern Thailand. In addition to raising its own funds, the JI receives money and logistic assistance from Middle East--Eastern and south Asian contacts, non-government organizations, and other groups, including al Qaida. The JI was responsible for the Bali, Indonesia bombings on 12 October 2002, which killed nearly 200 and wounded 300 others. e. According to testimony of the Indonesian indictment of Rusman Gunawan dated January 2004, the Detainee played a role in funding the bombing of the J. W. Marriott hotel in Jakarta, Indonesia. The Detainee personally carried 50,000 United States dollars; a portion of this money was used to finance safe houses and procure materials for the bombing of the J. W. Marriott hotel in Jakarta, Indonesia. f. Hambali, Rusman Gunawan is the brother of Jemaah Islamiya operations chief Riduan Bin Isomuddin, a.k.a Hambali, instructed Rusman Gunawan to contact Ammar al Baluchi, one of his contacts in Karachi, Pakistan, and request he

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provide 50,000 United States dollars to Hambali's contact in Bangkok, Thailand, a person known as Zubair, the Detainee. According to Gunawan, after he requested this funding from al Baluchi, he was contact – contacted by Mohammed Nazir Bin Lap Lillie. Lillie advised Gunawan he would travel to Bangkok, Thailand to meet with the Detainee and assist in the movement of money. Lillie provided Gunawan with a cellular telephone number the Detainee would be using. According to Gunawan, Lillie told him he intended to contact the Detainee by means of this cellular telephone. g. Ammar al Baluchi was captured on 29 April 2003 in Karachi, Pakistan as he waited for the delivery of explosives for an alleged plot against the United States consulate in Karachi, Pakistan. h. Rusman Gunawan advised Ammar al Baluchi that Mohammed Nasir Bin Lap Lillie would contact the Detainee in Bangkok, Thailand and Gunawan provided the telephone number of the Detainee to al Baluchi. Gunawan later learned that the Detainee and Lillie were known personally to each other. According to the statement of Gunawan, Lillie contacted him approximately a month and a half later and stated he had received the money. Subsequently, Gunawan contacted Hambali, who advised him the money had been received, though he did not specify by whom. i. Majid Khan, an associate of Ammar al Baluchi, traveled to Bangkok, Thailand to pick up the money after it was sent from Pakistan. During the time he was in Bangkok, Thailand, Khan maintained contact with al Baluchi. Their communications related largely to the financial scheme initiated by Rusman Gunawan. Al Baluchi eventually provided Khan with a telephone number for the Detainee so he could contact him. j. The money transferred by the Detainee was eventually delivered to Indonesia and used to fund a safe house and to purchase materials for the J.W. Marriott attack in Jakarta, Indonesia. During the trial of Rusman Gunawan for his involvement in the attack on the J.W. Marriott hotel, Gunawan specifically identified the Detainee as playing a role in the financing of the attack. k. The Detainee and other Jemaah Islamiya operatives left a suitcase containing 3,100 United States dollars and instructions on how to make and detonate a car bomb with Abdul Aziz Hajicheming in Cambodia. Hajicheming was arrested in May 2003 on charges of international terrorism. Sir, this concludes the summary of unclassified evidence.

PRESIDENT: Personal Representative, does the Detainee have any evidence to present?

PERSONAL REP: No, Sir.

PRESIDENT: Does the Recorder have any further unclassified evidence?

RECORDER: Mr. President, I have no further unclassified evidence for the Tribunal but I respectfully request a closed Tribunal session at an appropriate time to

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present classified evidence relevant to this Detainee's status as an enemy combatant.

PRESIDENT: Recorder, your request for a closed session is granted and will be taken in due course. We will now pause briefly to permit the Tribunal members to read the other unclassified evidence.

TRIBUNAL: Pardon me. [Member sneezed].

DETAINEE ORAL STATEMENT

PRESIDENT: Mr. ZUBAIR, you may now make an oral statement to the Tribunal, and you have the assistance of your Personal Representative in doing so. Do you wish to make an oral statement to this Tribunal?

DETAINEE: No. [Detainee said "no" in a very low voice and turned his head in a side to side movement to indicate a negative answer].

CALLING OF WITNESSES

PRESIDENT: We will now call – and now allow for the calling of witnesses. All witnesses called before this Tribunal may be questioned by the Detainee, if present, who is present of course; the Personal Representative may also question the witnesses as well as the Recorder and the Tribunal Members.

PRESIDENT: Does the Recorder have any witnesses to present?

RECORDER: No, Sir.

PRESIDENT: From the Detainee election form provided to the Tribunal earlier, I note that the Detainee has not requested witnesses.

FINAL DETAINEE STATEMENT

PRESIDENT: Mr. ZUBAIR, this concludes the presentation of unclassified information to the Tribunal. We are about to conclude the unclassified portion of this hearing. Do you wish to make any final statement to the Tribunal?

DETAINEE: No. [Detainee said "no" in a very low voice and turned his head in a side to side movement to further indicate a negative answer].

CLOSING UNCLASSIFIED SESSION

PRESIDENT: All unclassified evidence having been provided to the Tribunal, this concludes the open tribunal session. (ph.) MO-HA-MED FARIK BIN

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AMIN ZUBAIR, shall be notified of the Tribunal decision upon completion of the review of these proceedings by the Combatant Status Review Tribunal Convening Authority in Washington, D.C. If the Tribunal determines that you should not be classified as an enemy combatant, you will be released to your home country as soon as arrangements can be made. If the Tribunal determines that you are classified as an enemy combatant, you may be eligible for an Administrative Review Board hearing at a future date. The Administrative Review Board will make an assessment of whether there is continued reason to believe that you pose a threat to the United States or its coalition partners in the ongoing armed conflict against terrorist organizations such as al Qaida and its affiliates and supporters or whether there are other factors bearing upon the need for continued detention. You will have the opportunity to be heard and to present relevant information to the Administrative Review Board. You can present information from your family and friends that might help you at the Board. You are encouraged to contact them as soon as possible to begin to gather information that may help you. A military officer will be assigned at a later date to assist you in the Administrative Review Board process.

ADJOURN OPEN SESSION

PRESIDENT: The open session of this Tribunal hearing is adjourned.

RECORDER: The time is 0841 on 13 March 2007. All rise.

RECONVENE

RECORDER: All rise.

PRESIDENT: This hearing shall come to order. Please be seated.
The Tribunal for (ph.) MO-HA-MED FARIK BIN AMIN ZUBAIR is hereby reconvened in open session. Recorder, please not the date and time.

RECORDER: The time is 1446 on 17 March 2007.

PRESIDENT: For the record, all members of this Tribunal have been previously sworn.
Mr ZUBAIR, good afternoon.

DETAINEE: Good afternoon.

PRESIDENT: Mr. ZUBAIR, this Tribunal is reconvened in open session because the Panel had a question regarding one of the unclassified documents presented to us in open session earlier. Since you may be present at all open sessions of the

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Tribunal, you have been provided the opportunity to attend this additional open session. My previous instructions regarding your conduct in the hearing still apply. If you become disorderly, you will be removed from the hearing and the Tribunal will continue to hear evidence in your absence. You may not be compelled to testify at this Tribunal. However, you may testify if you wish to do so. Your testimony can be under oath or not under oath. You also have the assistance of your assigned Personal Representative who is present. You may examine documents or statements offered into evidence other than classified information. Also, as in the previous session, these proceedings will not be translated because you have indicated you do not require that service. However, a Translator is present if needed. If you do not understand something said here today, I encourage you to ask for a translation. Please raise your hand or ask me at any moment. Uh, Mr. ZUBAIR do you understand these instructions?

DETAINEE: Yes

PRESIDENT: Recorder, you previously provided exhibit R-3 which is a portion of the United States Department of Homeland Security's Terrorist Organization Reference Guide dated January 2004. Specifically, this exhibit concerns the Jamat Islamia organization. The document states that this organization goal is the creation of an idealized Islamic state comprising Indonesia, Malaysia, Singapore, the southern Philippines, and southern Thailand. Prior to reconvening, the Tribunal asked the Recorder if Indonesia, Malaysia, Singapore, the Philippines or Thailand were U.S. Coalition partners, particularly in 2002 or 2003. Recorder, I understand you have a response to our request.

RECORDER: Yes, Sir. I am handing the Tribunal the following unclassified exhibit marked R-3a. A copy of this exhibit was provided to the Personal Representative.

PRESIDENT: Recorder, do you have any ah-- comments regarding this additional exhibit that you would like to make?

RECORDER: Yes, Sir. Mister President, based on Exhibit R-3a provided; Indonesia, Malaysia, Singapore, Philippines and Thailand were all considered to be Asian allies with partners with the United States in the War against Terror in 2002, 2003. The exhibit does not specifically address the countries as being coalition partners but states the countries were Asian allies and partners with the United States. Additionally, the exhibit refers to the United States working closely with the Association of Southeast Asian Nations of which countries --of these Indonesia, Malaysia, Singapore, Philippines and Thailand were members of during the time period in question.

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PRESIDENT: Very well. Do you have any further comments you would like to make?

RECORDER: No, Sir.

PRESIDENT: And Personal Representative, did you receive this exhibit before the hearing as the recorder stated?

PERSONAL REP: Yes, Sir.

PRESIDENT: And did you have an opportunity to share this exhibit with the Detainee, Mr. ZUBAIR?

PERSONAL REP: Yes, Sir.

PRESIDENT: Mr. ZUBAIR, do you ah- wish to make any comments regarding this exhibit? You have the assistance of your Personal Representative if you have any comments.

DETAINEE: I don't have any comments but I have a question about what he just said.

PRESIDENT: I understand, Personal Representative, can you elaborate please?

PERSONAL REP: Yes, the Detainee has asked me to ask the following three questions. He would like for you to answer them slowly and have them translated in Malay please.

PRESIDENT: Understood, please continue.

PERSONAL REP: The first two questions concern military commissions. First question: what type of cases would normally be--be brought to military court? The second question is a follow on. Is there a distinction between cases involving civilians and uniformed military personnel as targets? The third question is in reference to Exhibit R-3a. What is the role of the Malaysian Government in the coalition? And if Malaysia is a coalition partner, does the Malaysian Government have the right to petition for the extradition of the Detainee? Those are his questions sir.

PRESIDENT: Understood. Translator, if you will please translate my ah-- responses. On the first two questions regarding the military commissions.

TRANSLATOR: [Translates above]

PRESIDENT: This Tribunal can not answer those questions.

TRANSLATOR: [Translates above]

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PRESIDENT: The military commission is another process that is not relevant to these proceedings.

PRESIDENT: Ah, your questions have been noted for the record and the transcript --

TRANSLATOR: [Translates above]

PRESIDENT: -- and other military authorities may answer your questions at a later time.

TRANSLATOR: [Translates above]

PRESIDENT: On your third question regarding the role of Malaysia --ah-- as part of a coalition with ah- the United States.

TRANSLATOR: [Translates above]

PRESIDENT: Ah, the specific roles of coalition partners is not also relevant to this ah--hearing--

TRANSLATOR: [Translate above]

PRESIDENT: -- and the actions or rights of a coalition partner such as Malaysia, which is your fourth question, --

TRANSLATOR: [Translates above]

PRESIDENT: -- is also not within the ah--ah--the authority of this board to address.

TRANSLATOR: [Translates above]

PRESIDENT: However, again, your questions have been noted in the transcript of this re--ah -- proceeding --

TRANSLATOR: [Translates above]

PRESIDENT: -- and may be addressed by other authorities.

TRANSLATOR: [Translates above]

PRESIDENT: Do you have any other comments or questions that you'd like to ask this Tribunal at this time, sir?

DETAINEE: No.

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PRESIDENT: No. Thank you.
Ah --Personal Representative, do you have any comments regarding the exhibit or any other matters regarding this board?

PERSONAL REP: No, Sir.

PRESIDENT: Recorder, do you have any questions?

RECORDER: No, Sir.

PRESIDENT: We'll take a short moment so the board may ah-- examine this new exhibit. Does the Tribunal have any questions regarding this new exhibit?

TRIBUNAL: No, Sir; No, Sir.

PRESIDENT: Very well. I'd like to note just for the record to be sure that ah-- all members have been previously sworn, it's the same members that were present at the last open session. This concludes this reconvened open session. Mr. ZUBAIR, thank you for attending. As I have informed you previously, you will be notified of the Tribunal decision upon completion of the review of these proceedings by the Combatant Status Review Tribunal convening authority, who is in Washington D.C. This open session of this Tribunal hearing is adjourned. The Recorder will note the time and date for the record please.

RECORDER: The time is 1504 on 17 March 2007. All rise.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate verbatim rendering of the testimony given during the Combatant Status Review Tribunal of ISN 10021.

[REDACTED], Colonel USAF
Tribunal President

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