

**UNCLASSIFIED**

**Verbatim Transcript of Open Session Combatant Status Review Tribunal Hearing for ISN 10012**

**OPENING**

PRESIDENT: Remain seated and come to order. Recorder, proceed.

RECORDER: All rise.

PRESIDENT: You may proceed.

RECORDER: This Tribunal is being conducted at 8:26AM on board U.S. Naval ah—let me start again sir.

PRESIDENT: Just keep going.

RECORDER: This Tribunal is being conducted at 8:26AM on 17 March 2007 on board U.S. Naval Base Guantanamo Bay, Cuba. The following personnel are present:  
Captain [REDACTED], United-United States Navy, President,  
Lieutenant Colonel [REDACTED], United States Air Force, Member,  
Lieutenant Colonel [REDACTED], United States Marine Corps, Member,  
Lieutenant Colonel [REDACTED], United States Air Force, Personal Representative,  
Language Analyst, [REDACTED],  
Sergeant First Class [REDACTED], United States Army, Reporter and  
Lieutenant Colonel [REDACTED], United States Army, Recorder.  
Captain [REDACTED] is the Judge Advocate member of the Tribunal.

**OATH SESSION 1**

RECORDER: All Rise.

PRESIDENT: The Recorder will be sworn. Do you, Lieutenant Colonel [REDACTED], solemnly swear 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 or affirm that you will faithfully discharge your duties as Reporter assigned in this Tribunal so help you God?

REPORTER: I do.

**UNCLASSIFIED**

PRESIDENT: The translator will be sworn.

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

TRANSLATOR: I do.

PRESIDENT: We'll now take a brief recess while the detainee is brought into the room.

RECORDER: The time is 828 hours on March 17<sup>th</sup>, 2007. This Tribunal is now in recess. [The Tribunal withdrew from the hearing room].

**CONVENING AUTHORIT**

[The Tribunal returned to the hearing room at 834AM].

PRESIDENT: This hearing will come to order. You may be seated. AHMED KHALFAN GHAILANI, I understand that you speak and understand the English language, is that correct?

DETAINEE: Yes. [spoken in a very low voice].

PRESIDENT: Please speak up too, so, we are recording this meeting to hear you, alright.

DETAINEE: Yeah.

PRESIDENT: Okay. Ah, if ah- you feel comfortable proceeding in English today?

DETAINEE: Yes.

PRESIDENT: Alright, the Translator is present, if at any time you don't understand what's going on, please indicate that to me or to the Translator and then we'll provide a translation for you.

DETAINEE: Okay.

PRESIDENT: Alright. This Tribunal is convened by order of the Director, Combatant Status Review Tribunals under the provisions of his Order of 22 February 2007. This Tribunal will determine whether AHMED KHALFAN GHAILANI, 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.

**UNCLASSIFIED**

**OATH SESSION 2**

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

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

PERSONAL REP: I do.

**EXPLANATION OF PROCEEDINGS**

PRESIDENT: Please be seated. The Recorder, the Reporter, and the Translator have been previously sworn. AHMED KHALFAN GHAILANI, you are hereby advised that the following applies during this hearing: You may be present at all sessions --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 un-sworn. You have the assistance of a Personal Representative at this hearing. Your 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 this Tribunal. You may examine documents or statements offered into evidence other than classified information. However, certain documents may be partially masked for security reasons. AHMED KHALFAN GHAILANI, do you understand this process?

DETAINEE: I understand it.

**UNCLASSIFIED**

PRESIDENT: Do you have any questions concerning this process?

DETAINEE: I don't have any questions.

**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 D-a.

**RECORDER PRESENTS UNCLASSIFIED**

PRESIDENT: Tribunal has received exhibit D-a indicating the detainee wishes to participate in the Tribunal and wants the assistance of the Personal Representative. 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 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 exhibit, marked as Exhibit R-2. Copies of these Exhibits have previously been provided to the Personal Representative.

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

RECORDER: The following—the following facts support the determination that the detainee is an enemy combatant: a. On 7 August 1998, an explosive device was detonated in the vicinity of the American embassy building located in Dar es Salaam, Tanzania, severely damaging the American embassy building and causing the deaths of at least 11 persons and injuries to at least 85 people. Paragraph b. On 16 December 1998, the detainee was indicted by the United States District Court for the Southern District of New York, for his role in the bombings of the American embassies in Dar es Salaam, Tanzania and Nairobi, Kenya. Paragraph c. The detainee purchased the vehicle used to bomb the United States embassy in Dar es Salaam, Tanzania. The detainee supplied trinitrotoluene also know as TNT and detonators, and rode in the bombing scout vehicle which when recovered

**UNCLASSIFIED**

tested positive for TNT. Paragraph d. Khalfan Khamis Mohammed, who was indicted for his role in the bombings of the American embassies in Dar es Salaam, Tanzania and Nairobi, Kenya, identified the detainee as being a member of the group responsible for the bombing of the American embassy in Dar es Salaam, Tanzania on 7 August 1998. Paragraph e. Khalfan Khamis Mohammed, who was indicted for his role in the bombing of the American embassies in Dar es Salaam, Tanzania, and Nairobi, Kenya, stated that the detainee brought trinitrotoluene (TNT), detonators, fertilizer and gas cylinders to the Ilala house. The detainee participated in the assembly of the bomb in a concealed truck at the Ilala house. Paragraph f. The detainee and a man named Sheikh Ahmed Salim Swedan purchased a 1987 Nissan Atlas truck during July 1998. That truck was later used as the bomb delivery vehicle for the bombing of the American embassy in Dar es Salaam, Tanzania. Paragraph g. The detainee obtained a mobile phone in Dar es Salaam, Tanzania, that was used as a means of communication between terrorist cells in Kenya and Tanzania. The last call from this phone was placed to Kenya approximately one hour before the bombings in Kenya and Tanzania. It is believed that this phone was destroyed inside the bomb delivery vehicle upon detonation outside the American embassy in Tanzania. Sir, this concludes the summary of unclassified evidence.

PRESIDENT: Very well. Personal Representative, does the Detainee have any evidence to present to this Tribunal?

PERSONAL REP: Yes, Sir. I am handing to the Tribunal the following unclassified exhibits marked as exhibit D-b through D-c. Copies of these exhibits have been previously provided to the Recorder.

PRESIDENT: The Tribunal has received exhibit D-b which appears to be a response by the detainee to the items contained in the unclassified summary. I take it that the Personal Representative will read that in an appropriate time in this proceeding.

PERSONAL REP: Yes, Sir. The Detainee has requested that I read the ah – the response ah-unclassified summary with an understanding that he may interject or add ah-to that statement to correct anything that I say.

PRESIDENT: Very well, I'll permit you to do that at the appropriate time. 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 present classified evidence relevant to this detainee's status as an enemy combatant.

**UNCLASSIFIED**

PRESIDENT: Your request for a closed session is granted and will be taken up in due course. We will now pause briefly to permit the Tribunal members time to read the unclassified evidence [The Tribunal members read the documents].

**DETAINEE ORAL STATEMENT**

PRESIDENT: AHMED KHALFAN GHAILANI, 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 a statement to this Tribunal?

DETAINEE: Yes, Sir.

PRESIDENT: Alright. I understand that the –I understand the personal representative is going to accomplish that for you. Before we proceed, would you like to make any statements that you make today under oath? We have prepared a Muslim oath if you wish to use it. We do not, however, require that you take an oath. Would you like to take an oath?

DETAINEE: I would like to.

PRESIDENT: Very well. Recorder, please administer the form of oath.

RECORDER: Please repeat. In the name of Allah, the most compassionate, the most merciful. I, AHMED KHALFAN GHAILANI swear by almighty God that my testimony before this Tribunal will be the truth.

PRESIDENT: Recorder, do it one more time and in smaller pieces.

TRANSLATOR: [detainee indicated to translator that he did not understand]. One moment please sir, he says don't go fast and I like you to say it sentence by sentence.

PRESIDENT: Okay, carry on.

RECORDER: Please repeat. In the name of Allah,

DETAINEE: In the name of Allah,

RECORDER: the most compassionate,

DETAINEE: the most compassionate,

RECORDER: the most merciful.

DETAINEE: the most – the most merciful.

**UNCLASSIFIED**

RECORDER: I, AHMED KHALFAN GHAILANI

DETAINEE: I [both speaking at same time].

DETAINEE: I, AHMED KHALFAN GHAILANI

RECORDER: swear by almighty God

DETAINEE: swear by almighty God

RECORDER: that my testimony before this Tribunal will be the truth.

DETAINEE: that my testimony in this Tribunal will be the truth.

PRESIDENT: You may begin your statement. Personal Representative, you may proceed.

PERSONAL REP: The Detainee responds to the following subparagraphs from the unclassified summary of evidence with the following key points. Also with the understanding that the detainee may interject or add to the statements I make to correct what I say. Subparagraph 3-c. "I did not purchase the truck, but when they bought it, I was there. Maybe I rode in the scouting vehicle at some point, but never to scout the site of the explosion. I never rode in the vehicle that exploded. Regarding the TNT, when Fahad Mohammed needed the TNT, he knew where to get it and could have gotten it himself, but he sent me to get it and bring it to him. When Fa--Fahad asked me to get it he said it was soap for washing horses—I did not know it was TNT. However, the man who gave it to me told me it was TNT. When I returned to Fahad, I asked what the purpose of the TNT was and why he didn't tell me. Fahad replied that it was for mining for diamonds in Somalia and also for a Somali Training Camp. When I asked him why he didn't tell this wa-- from the beginning, he said it was because he didn't want me to fear." Subparagraph 3-d. "I was in Dar es Salam, Tanzania Africa, at this time, I was living with a group of friends. There was no formal membership among this group that I was aware of, and at the time I did not know if any of my friends were members of al Qaida or any other terrorist organization." Subparagraph 3-e. "I brought some of these materials to the Ilala house, but I did not know what they were for. I brought the TNT and the gas cylinders to the Ilala house. I did not bring the detonators to the Ilala house. I gave the detonators to Fahad at a different location. Also, I was unaware of having any fertilizer in my possession and I did not participate in the assembling – in assembling the bomb". Subparagraph 3-f. "When Sheikh Swedan bought the truck, I was present, but I was not the one who bought it." Subparagraph 3-g. "I obtained the phone for a man named Mustaffa, who is an Egyptian, although at the time I thought he was from Kenya. He goes by

**UNCLASSIFIED**

several different names. I bought the phone for Mustaffa under my name. Mustaffa and my friend Rashid were with me when I bought the phone. Mustaffa used the phone and after a few days he gave it back to me. I kept the phone for awhile, but Mustaffa kept borrowing it. He would usually take it for a few days. Also, when Mustaffa used the phone, he never told me who he called, when, why, or who called him. I never asked him for this information.”

PRESIDENT: Does that conclude the prepared statement?

PERSONAL REP: Yes, Sir.

PRESIDENT: AHMED KHALFAN GHAILANI, ah, the statement that you just heard read, were those your words?

DETAINEE: Yes.

PRESIDENT: Did you want the Personal Representative to read that for you?

DETAINEE: Yes.

PRESIDENT: Are you under any force or coercion today to make any statement?

DETAINEE: No.

PRESIDENT: You made that statement of your own free will?

DETAINEE: Yes.

PRESIDENT: Very well. Do you want to add anything to that statement at this time?

DETAINEE: If you want any more information.

PRESIDENT: Alright, we'll have some questions shortly, so, thank you. Personal Representative, do you have any questions for the detainee?

PERSONAL REP: Yes, Sir. I have one question for the detainee. AHMED KHALFAN GHAILANI, since the witness you requested, named Khalfan Khamis Mohammed, declined to testify on your behalf, can you please explain what testimony you expected from him as it relates to subparagraph 3-e of the Unclassified Summary of Evidence, specifically, the assembly of the bomb?”

PRESIDENT: If it's easier for you to do in ah—Arabic, you may do so and the Translator will translate for you.



UNCLASSIFIED

DETAINEE: I'm fine – English.

PRESIDENT: Alright. Very well.

DETAINEE: I expect him to say, Khalfan, because ah—you said he say that I was involved in making the bomb. But I think he didn't say that. I think he didn't say that. Maybe he said AHMED was involved in this and there was two AHMEDs. Me and another one. So maybe the one who answered the question, he end up tell, it could tell it could be me. But I think it isn't me. He mean another AHMED. Not me.

PRESIDENT: I understand. Is there anything else you would like to say about that?

DETAINEE: No.

PRESIDENT: Recorder, do you have any questions for the detainee?

RECORDER: No, Sir.

PRESIDENT: Do any of the Tribunal members have questions for the detainee?

TRIBUNAL: Ah – yes, sir.

PRESIDENT: You may proceed.

TRIBUNAL: Ah- what – what purpose did you purchase the 1987 Nissan truck with Sheik Swedan? What – what reason did you purchase the vehicle?

DETAINEE: I didn't purchase it --- but when he purchased it, he told me that they need it in Somali because it was a refrigerator truck. But they need for transportation from Somali to Kenya, Mombassa.

TRIBUNAL: And why did you purchase the cell phone for Mustafa?

DETAINEE: When he came Tanzania he came to live there, in Tanzania. So he-he need ah- communication with the king because he met a king—and king-- ah -- wife so he need to communication, between Dar es Salam and Kenya, so he asked for a phone.

TRIBUNAL: Where did Mustafa come from?

DETAINEE: He was Egyptian. But at that time I didn't know him – that he was Egyptian. I know he was Kenyan because he had a Kenyan passport and his wife was Kenyan. So, and he speak Swahili very well, so I know at least he was from Kenya.

**UNCLASSIFIED**

TRIBUNAL: Did you use the cell phone too?

DETAINEE: Yes I use it.

TRIBUNAL: And what purpose did you use it for?

DETAINEE: I can't remember exactly but my own purposes because ah – my own business.

TRIBUNAL: And where did you purchase the TNT?

DETAINEE: TNT? Ah--- From Arusha, one man was, his name was ah- Hussein.

TRIBUNAL: And you did – you did say that you did bring the TNT, the cylinders to the house?

DETAINEE: Yes.

TRIBUNAL: To the house? And for what purpose did you think that was being used?

DETAINEE: Fahad, when he needed them, he told me that they need them to take them also to Somalia. Because they have truck that was going to Somalia, so it would be easy transport. So he told me that he needed it for business.

TRIBUNAL: Did you ever drive the scout vehicle around the American Embassy in Tanzania?

DETAINEE: No. I didn't, also, I don't drive myself – I don't know how to drive.

TRIBUNAL: No more questions from me.

PRESIDENT: Thank you. Member?

TRIBUNAL: Were you ever in the vehicle that drove around the American Embassy and scouted ah- during scouting operations?

DETAINEE: I'm sorry. [Indicating he did not understand].

TRIBUNAL: Were you in the vehicle that scouted the American Embassies?

DETAINEE: When they –

TRIBUNAL: Yes.

DETAINEE: - went scouting?

UNCLASSIFIED

TRIBUNAL: Yes.

DETAINEE: No. Sometimes I rode in that vehicle but not for scouting. Just around the town. I never go with them to Embassy you understand. I never go with them.

TRIBUNAL: Do you have any recollection being in the car when they made comments or discussions about the Embassies?

DETAINEE: No.

TRIBUNAL: You said ah- in your response to paragraph 3-c, that Fahad Mohammad, when you inquired about why did he have you pick up TNT, and he said I didn't want you to fear something was wrong. When he told you that, did you have any fear that there was something wrong?

DETAINEE: He didn't tell me that ah, he didn't want me to fear something wrong. He didn't want me to fear, that if I know it was explosives, maybe I would fear because it was explosive. So he didn't want me to know that it was explosive.

TRIBUNAL: Okay. No more questions.

PRESIDENT: Are you a member of al Qaida?

DETAINEE: Not a member, no. I was ah- when I was in Afghanistan, I work with them. I work with them but I wasn't a member of al Qaida.

PRESIDENT: When were you in Afghanistan? What year?

DETAINEE: 1998, after they plan everything in Tanzania, they took me with them to Afghanistan.

PRESIDENT: And did you undergo any training while in Afghanistan?

DETAINEE: Yes.

PRESIDENT: At al Qaida camps?

DETAINEE: Yes, al Qaida training camps.

PRESIDENT: Al Farouq?

DETAINEE: Al Farouq. Yes.

**UNCLASSIFIED**

PRESIDENT: Did you carry weapons at that time?

DETAINEE: Yes.

PRESIDENT: Kalashnikov, learn how to shoot it?

DETAINEE: Yes.

PRESIDENT: When were you captured?

DETAINEE: Ah – 2004.

PRESIDENT: And where?

DETAINEE: In Pakistan.

PRESIDENT: What were you doing there?

DETAINEE: I was in the house, just living the house and ah- at that time my job for al Qaida, it was documents.

PRESIDENT: Documents?

DETAINEE: Yes.

PRESIDENT: So you prepare passports for people-

DETAINEE: Yes.

PRESIDENT: - and help them get across borders and that sort of thing?

DETAINEE: Yes.

PRESIDENT: Alright. Any other questions here?

TRIBUNAL: Yes please.

PRESIDENT: Okay.

TRIBUNAL: Did – When you were in al Qaida training camps, did you train in explosives?

DETAINEE: Yes, how to use them.

TRIBUNAL: How to use them?

UNCLASSIFIED

DETAINEE: Yes.

TRIBUNAL: How to detonate them?

DETAINEE: Yes.

TRIBUNAL: How to assemble them?

DETAINEE: No, just how to detonate them.

TRIBUNAL: How to detonate them.

DETAINEE: Yes. And type of explosives.

TRIBUNAL: And how often, did you, did you go back and forth between Afghanistan and Pakistan several times?

DETAINEE: No.

TRIBUNAL: No.

DETAINEE: All the time I was in Afghanistan until ah after September when Americans attack Afghanistan. I went to Pakistan and I stayed there.

TRIBUNAL: How long were you in the al Farouq camp for?

DETAINEE: For receiving training?

TRIBUNAL: Yes.

DETAINEE: Maybe three months.

TRIBUNAL: Three months?

DETAINEE: Yes.

TRIBUNAL: And what year was that? You said that was-

DETAINEE: 1998.

TRIBUNAL: That was early in 1998, before the -

DETAINEE: No, -

TRIBUNAL: - bombs?

**UNCLASSIFIED**

DETAINEE: After.

TRIBUNAL: It was after the bombings.

DETAINEE: Yes.

TRIBUNAL: And why did you go there?

DETAINEE: In Afghanistan?

TRIBUNAL: Why did you leave Tanzania to go to Afghanistan?

DETAINEE: After they finish their plan in Tazan.

TRIBUNAL: Okay.

DETAINEE: They took me with them.

TRIBUNAL: They took – they took you out of your own free will – I mean?

DETAINEE: No no, on my own free will.

TRIBUNAL: You traveled on your own with them?

DETAINEE: Yes, because before that happened, before in 1996, I think, myself, I wanted to have training, military training.

TRIBUNAL: And -and

DETAINEE: And I tried to Afghanistan but I didn't, I-I couldn't go.

TRIBUNAL: And the individuals you traveled with, you knew they were al Qaida?

DETAINEE: No, I didn't know.

TRIBUNAL: You didn't know.

DETAINEE: No.

TRIBUNAL: When you went to the al Farouq camp, did you know that was an al Qaida training camp?

DETAINEE: Yes. When I was there, I understand that it was al Qaida. Because before I went there, I didn't even know what al Qaida, if there was something called al Qaida. But when I was in Afghanistan, I didn't understand something called al Qaida – no.

**UNCLASSIFIED**

TRIBUNAL: Did you know at the time that – that ah, Usama bin Laden had declared a war against the United States when you were there?

DETAINEE: After I arrived there in Afghanistan, I came to, but before that, I didn't know.

TRIBUNAL: Were you told that you would be training to be an enemy combatant against the United States essentially?

DETAINEE: No – no.

TRIBUNAL: Why – why would they, what did they tell you-you would do after the training?

DETAINEE: They didn't train me for any purpose. Because anyone who wanted training there, they give them training. They don't ask him, why he wants to train or why he was there. They give him training; some of them will remain there and some of them went back to their countries.

TRIBUNAL: And what did you hope to do with the training there?

DETAINEE: I-[Member spoke over].

TRIBUNAL: I mean, why did you go personally? Right. Why would you train in military weapons and explosives? What did you hope to do with that?

DETAINEE: Because I am from Africa, and ah- my country it was our neighbors countries, most of them they have problems. And those who get most problems, who don't have military training. So I wanted this for this for self defense. Because in Tanzania, we didn't have any problem but our neighbors, Rwanda, Burundi, Congo and other countries. They have problems. And most of the people who get most problem when, ah, problem country, those with no training, uh, military training I wanted training for myself only, in my country, I couldn't, I didn't like to go to government training in Tanzania, but I like to have military training. But after I left, we went to Afghanistan, and I know what's happened in Africa, and I heard that I was among the wanted people, so I could not go again to my country. So I stay with them.

TRIBUNAL: You stayed with them in Pakistan then?

DETAINEE: In Afghanistan.

TRIBUNAL: In Afghanistan. And then when did you travel to Pakistan?

**UNCLASSIFIED**

DETAINEE: After 11 September.

TRIBUNAL: After 11 September. And who did you live with in Pakistan?

DETAINEE: Ah- sometime I live with ah – one-one brother, his name was Shabib.

TRIBUNAL: Was he a member of al Qaida? Or trained with you at al Farouq?

DETAINEE: No, no. He was not a member of al Qaida, but he was a relative to Khalid Sheikh Mohammed. He's real active. So I stay with him. And when I was in Pakis---ah- another--- last time, before I captured, I was living with one brother Pakistani. His name was Abu Tareq Pakistani.

TRIBUNAL: Did you meet Usama Bin Laden or did you meet Khalid Sheikh Mohammad?

DETAINEE: Where, when I was in Pakistan or when I was in Afghanistan?

TRIBUNAL: Either.

DETAINEE: In Afghanistan, I met them all.

TRIBUNAL: You met them all.

DETAINEE: Yes.

TRIBUNAL: Did you ever swear allegiance, bay'at to

DETAINEE: No.

TRIBUNAL: Usama bin Laden.

DETAINEE: No.

TRIBUNAL: Nothing further.

PRESIDENT: I'm sorry. [for delay].

**CALLING OF WITNESSES**

PRESIDENT: We will now allow for the calling of witnesses. All witnesses called before this Tribunal may be questioned by the Detainee, 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?



**UNCLASSIFIED**

RECORDER: No, Sir.

PRESIDENT: From the Detainee Election Form and earlier I was informed that the Detainee wished the production of a particular witness. I'll now explain to you, AHMED KHALFAN GHAILANI, the decisions that I made relative to the production of that witness and then if you have any questions, I'll be happy to answer them for you. You requested the production of Khalfan Khamis Mohammad. The detainee believed that Khalfan is in U.S. custody and that the detainee also believed that if called, this witness could provide testimony relating to the detainees actions ah- at, particularly as set forth in paragraph 3-e of the unclassified summary of evidence related to fertilizer and the assembly of the bomb. Additionally today, the detainee informed the Tribunal that he believed that Khalfan Khamis Mohammad would say that perhaps he was confused about which Ahmed he was talking about. That it might have been a different Ahmed.

DETAINEE: Not him Khalfan, the one that asked him about the question.

PRESIDENT: I see, but Khalfan would be able to explain that.

DETAINEE: Yes.

PRESIDENT: Alright. On February 22<sup>nd</sup> of this year, when I was informed of this, I determined that testimony would be relevant to these proceedings and I requested that the Tribunal staff attempt to locate Khalfan Khamis Mohammad to see if he will be willing to provide testimony to this Tribunal. He was located and he is indeed ah- incarcerated in a federal facility in the United States. His representatives were contacted and were asked to determine whether Khalfan Khamis Mohammad wished to provide testimony to this Tribunal on your behalf. Because he was incarcerated and incapable of coming to this island –

DETAINEE: Can I ask a question?

PRESIDENT: Yes, go ahead.

DETAINEE: What means incarcerated?

TRANSLATOR: [Translator explains meaning to detainee].

PRESIDENT: [Speaking for the record]. The translator provided a translation of the word incarcerated for the benefit of the detainee.

[Continuing] I, at that point determined that he was not reasonably available

**UNCLASSIFIED**

to travel to attend this Tribunal because he was elsewhere and could not be free to travel. I then determined that alternatives to his testimony would be acceptable and requested the staff members of this Tribunal to obtain a statement from him in response to your explanation as to what you thought he would say. When he was approached, through his representatives, he declined to provide any statements for you in these proceedings. He did not wish to participate. However, indicating that at some future proceeding, if there is another proceeding in your case, that he may decide to cooperate at that point. This Tribunal does not have the power to compel him to make him come and testify nor does it have the power to tell him to write a statement. So for those reasons, he is not reasonably available. Nor are there alternative means available to this Tribunal to receive his evidence or testimony. Do you have any questions regarding the Tribunal's ruling in this matter?

DETAINEE: No questions.

PRESIDENT: Do you understand the reasons why your witness could not be present here today?

DETAINEE: I understand.

PRESIDENT: Very well.

**FINAL DETAINEE STATEMENT**

PRESIDENT: AHMED KHALFAN GHAILANI, 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: I don't have any question, any-any statements but I would like to apologize to the United States Government for what I did before. In helping them because I helped but although it wasn't – it was without my knowledge what they were doing but I helped them. So I apologize to the United States Government for what I did. And I'm sorry for what happened to those families who lost, who lost their friends and their beloved ones. That is all.

PRESIDENT: Thank you. I understand.

**CLOSING UNCLASSIFIED SESSION**

PRESIDENT: All unclassified evidence having been provided to the Tribunal, this concludes the open tribunal session. AHMED KHALFAN GHAILANI

**UNCLASSIFIED**

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 you're 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 be helpful to you at the Board. You are encouraged to contact them as soon as possible to begin to gather information that may be helpful to 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 0910 hours, the date is 17 March 2007. All rise.

**AUTHENTICATION**

I certify the material contained in this transcript is a true and accurate verbatim rendering of the proceedings and the testimony given during the Combatant Status Review Tribunal of ISN 10012

[REDACTED], CAPT JAGC USN  
Tribunal President

ISN # 10012  
Enclosure (3)  
Page 19 of 19

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