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Verbatim Transcript of Open Session Combatant Status Review Tribunal Hearing for ISN 10014

OPENING

REPORTER: We are on the record.

PRESIDENT: Remain seated and come to order. Proceed Recorder.

RECORDER: This Tribunal is being conducted at one one two local, date is 12 March 2007 on board U.S. Naval Base Guantanamo Bay, Cuba. The following personnel are present:
Captain [REDACTED], United States Navy, President
Lieutenant Colonel [REDACTED], United States Marine Corps, Member
Lieutenant Colonel [REDACTED], United States Air Force, Member
Major [REDACTED], United States Air Force, Personal Representative
Mister [REDACTED], Translator,
Sergeant First Class [REDACTED], United States Army, Reporter,
Lieutenant [REDACTED], United States Navy, 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 [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.

PRESIDENT: Translator will now be sworn.

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

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TRANSLATOR: I do.

PRESIDENT: Take a brief recess now while the detainee is brought into the room.

RECORDER: The time is one one three local, the date is 12 March 2007, the Tribunal is now in recess. All rise. [The Tribunal withdrew from the hearing room].

CONVENING AUTHORITY

RECORDER: All rise. . [The Tribunal entered at the hearing room at 1320 hours, 12 March 2007].

PRESIDENT: This hearing will come to order. You may be seated.

WALID BIN ‘ATTASH this Tribunal is convened by order of the Director, Combatant Status Review Tribunals under the provisions of his Order of 22 February 2007.

PRESIDENT: This Tribunal will determine whether WALID BIN ‘ATTASH, 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 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.

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PRESIDENT: You may be seated.

PRESIDENT: The Recorder, the Reporter, and Translator, have previously been sworn.

EXPLANATION OF PROCEEDINGS

PRESIDENT: WALID BIN 'ATTASH, you are hereby advised that the following applies during this hearing:

PRESIDENT: 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.

PRESIDENT: 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 unsworn.

PRESIDENT: You have the assistance of a Personal Representative at the hearing. Your assigned Personal Representative is present.

PRESIDENT: 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.

PRESIDENT: You may examine documents or statements offered into evidence other than classified information. However, certain documents may be partially masked for security reasons.

PRESIDENT: WALID BIN 'ATTASH do you understand this process?

DETAINEE: Yes.

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

DETAINEE: No.

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.

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PRESIDENT: Tribunal has received exhibit D-a, the Detainee Election Form indicating the detainee wants to participate in the Tribunal and want the assistance of the Personal Representative.

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 – 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 exhibits, marked as Exhibit 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. But before you proceed, let me remind you, WALID BIN ‘ATTASH, that you must not comment on this evidence at this time. You will be provided an opportunity to provide comments shortly. Recorder, please proceed

RECORDER: Paragraph 3, the following facts support the determination that the detainee is an enemy combatant:

a. On 7 August 1998, near simultaneous truck bombs were detonated at the United States embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania. The explosion at the United States embassy in Nairobi resulted in the death of 213 people, including 12 Americans. More than 4,500 people were wounded. b. Mohammad Rashed Daoud Al-Owhali Al-Owhali stated that in approximately June or July 1998, the detainee told him that his mission was a martyrdom mission, where he would be driving a vehicle filled with explosives into a target which would result in his death. The detainee told Al-Owhali the target was a United States embassy in East Africa, but he was not told the exact country. c. In 1998, Mohamed Rashed Daoud Al-Owhali was indicted in the United States District Court, Southern District of New York, for his involvement in the 7 August 1998 bombing of the United States embassy in Nairobi, Kenya. Charges included conspiracy to kill United States nationals, conspiracy to murder, kidnap, and maim at places outside the United States, conspiracy to murder, conspiracy to use weapons of mass destruction against nationals of the United States, conspiracy to destroy buildings and property of the United States, and conspiracy to attack defense utilities. d During the latter part of 1999, the detainee facilitated and participated in close-combat training which was held in the Lowgar

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training camp in Afghanistan. The graduates of the class then met with Usama bin Laden who lectured about the operational details of the East Africa bombings. e. On 12 October 2000, the USS Cole was attacked during refueling in the Yemeni port of Aden by operatives of the al Qaida network. Al Qaida claimed responsibility for the attack. Seventeen United States sailors were killed and 39 other sailors were wounded. f. Stamps utilized on a forged Yemeni merchant's registration card, which was utilized by the detainee, were forged by a suspect of the USS Cole bombing. g. A participant in the USS Cole bombing identified the detainee as someone he knew from an al Qaida training camp. The participant in the USS Cole bombing that identified the detainee stated an individual approached him with a letter from the detainee requesting assistance in facilitation of the USS Cole bombing. The participant in the USS Cole bombing claimed the only reason he agreed to visit the individual was due to the letter from the detainee. h The detainee went to an al Qaida training camp in Afghanistan in December 2000. i. An al Qaida cell associated with a senior al Qaida operative used the code name, *father of the leg*, which was a reference to the detainee and the fact that he was missing a leg. j. A notebook that was seized during the capture of a senior al Qaida operative contained a phone number that was also found in the stored memory of a phone belonging to the detainee. k. The detainee's University of Islamic Studies identification card was found at an alleged al Qaida residence in Karachi, Pakistan. l. The detainee was implicated in a notebook containing account ledgers for payments made to various al Qaida operatives which was found during a raid of an al Qaida safe house. m. A source that met the detainee in Afghanistan stated he also saw the detainee at al Farouq training camp. The source stated the detainee worked for an important person in al Qaida and the detainee was a body guard for Usama bin Laden. Sir, this concludes the summary of unclassified evidence.

PRESIDENT: Thank you. Personal Representative does the Detainee...

PERSONAL REP: Sir, translation.

PRESIDENT: Oh, I'm so sorry - Continue. [Translation of unclassified summary of evidence].

Personal Representative, does the Detainee have any evidence to present to this Tribunal?

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PERSONAL REP: Yes, Sir. I am handing the Tribunal the following unclassified exhibit marked as Exhibit D-b, a copy of this exhibit has been previously provided to the Recorder. This is the oral statement to the CSRT.

PRESIDENT: The Tribunal has received exhibit D-b and I'll permit the PR to read it 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 - respectfully request a closed Tribunal session at an appropriate time to 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 finish reading the unclassified evidence.

DETAINEE ORAL STATEMENT

PRESIDENT: WALID BIN 'ATTASH, you may now make an oral statement to this 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: As I mentioned to my personal representative, there are certain details that need to be basically corrected.

PRESIDENT: Would you like to an oath in order to make your statement? We have prepared a Muslim oath if you'd like to use it. We do not however require an oath.

DETAINEE: No.

DETAINEE QUESTION & ANSWER

PRESIDENT: Why don't we proceed with the PR reading the statement that has been prepared and then if ah the detainee would like to make further statements, he will be permitted to do so.

DETAINEE: Yes.

PERSONAL REP: Oral statement to CSRT from meeting number two with PR number 4 and Arabic translator, Wednesday 13 February 2007.

PRESIDENT: Proceed.

TRANSLATOR: Ah - read it again please.

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PERSONAL REP: Oral statement to CSRT from meeting number two with PR number 4 and Arabic translator, on Wednesday 13 February 2007.

PERSONAL REP: Detainee has no notes, witness requests, evidence requests or specific responses to the Unclassified Summary. Generally speaking, the detainee responded that it was hard to dispute the evidence but that the evidence was there in the unclassified summary. Detainee stated the facts on the operations were mixed up, but the facts are the facts. Facts of the operations are correct and his involvements are correct, but the details are not correct. Detainee did not wish to correct he details.

PRESIDENT: WALID BIN 'ATTASH, is that what you want the PR to read for you?

DETAINEE: Yes.

PRESIDENT: Is what he said for you true and correct?

DETAINEE: Yes.

PRESIDENT: Would you like to add anything else to it at this time?

TRANSLATOR: He has two questions on some of the –ah- ah- basically the evidence that we've said about him. One about the notebook and the other one about the other al Qaida involvement in the operation.

PRESIDENT: You may proceed.

DETAINEE: Regarding the evidence that the phone number of the al Qaida operator was found in the detainee in the detainee's –ah- phone is false because he did not have a phone. And he never had a phone at the time he was detained.

PRESIDENT: Is there anything else?

DETAINEE: As far as the fake documents that were drawn from a merchant, that is not true. All the fake documents were from him [detainee]. They were not prepared from anybody else. All the documents were from him [detainee] that were used against the Cole, it wasn't drawn from anybody else or –ah- faked from anybody else.

PRESIDENT: Is there anything else?

DETAINEE: No.

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

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PERSONAL REP: No, sir.

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

RECORDER: No, sir.

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

TRIBUNAL: I do

PRESIDENT: Proceed.

TRIBUNAL: What exactly was his role as the – both the USS Cole and the –ah- embassy thing?

DETAINEE: Many roles, I participated in the buying or purchasing of the explosives. I put together the plan for the operation a year and a half prior to the operation. Buying the boat and recruiting the members that did the operation. Buying the explosives.

TRIBUNAL: Nothing further.

PRESIDENT: And you [the other board member].

TRIBUNAL: No sir.

PRESIDENT: Where were you, physically, at the time of the Cole attacks?

DETAINEE: He was with Sheik Usama bin Laden in Kandahar.

PRESIDENT: And at the time of the embassy attacks?

DETAINEE: I was in Karachi meeting the operator, the guy that basically did the operation a few hours before the operation took place. These are statements that are not in the evidence that you have. These are additions to the questions that you have asked.

PRESIDENT: What can you tell us about the –ah- item contained in paragraph, in item 3a?

TRANSLATOR: Which one?

PRESIDENT: Of the unclassified evidence. In 1998?

DETAINEE: I was the link between Usama bin Laden and his deputy Sheikh Abu Hafs Al Masri and the cell chief in Nairobi. I was the link that was available in

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Pakistan. I used to supply the cell with what ever documents they need from fake stamps to visas, whatever. Sending them from Afghanistan to Pakistan and individuals, cell members.

CALLING OF WITNESSES

PRESIDENT: Alright, we'll now allow for the calling of witnesses. All witnesses called before this Tribunal may be questioned by - by the Personal Representative, 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 the presence of witnesses.

DETAINEE: That is true.

PRESIDENT: WALID BIN 'ATTASH, 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.

CLOSING UNCLASSIFIED SESSION

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

PRESIDENT: WALID BIN 'ATTASH, 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

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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 1353 local. The date is 12 March 2007. All Rise.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate verbatim rendering of the testimony and English language translation of the detainee's words given during the Combatant Status Review Tribunal of ISN 10014.

[REDACTED]
CAPT JAGC USN
Tribunal President

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Enclosure (3)
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