

Summarized Detainee Sworn Statement

The Tribunal President read the Hearing Instructions to the Detainee and confirmed that the Detainee understood and the Detainee had questions.

Detainee: Yes I have a question.

Tribunal President: What question might that be?

Detainee: I'm a poor man, very disabled; I am a farmer and I have very small kids. I don't know what's happened to them. I have been here for two years in detention. I want you to take care of me.

Tribunal President: I understand. That's why we're here today, to focus on your situation.

Detainee: Okay.

Tribunal President: Do you have any other questions at this time?

Detainee: My other question is they captured me in my house.

Tribunal President: We will give you an opportunity to give us a testimony and identify information that pertains to your story as well as letting you address the unclassified summary of information at a later time.

Detainee: Okay.

Tribunal President: I just want to be sure now that you have an understanding of what we are here today for.

Detainee: Yes, that you're reviewing my case.

Tribunal President: Exactly. We will review your information, the unclassified evidence, and the classified information along with your testimony and determine whether you have been properly classified as an Enemy Combatant. Keep in mind we haven't seen any information about you. We have come here today with an open mind and we have not seen your file. As you have observed we took an oath signifying and verifying the fact that we will provide a fair and just decision.

Detainee: Okay.

The Personal Representative presented the Detainee Election Form (Exhibit D-a) to the Tribunal.

The Recorder presented the Unclassified Summary of Evidence (Exhibit R-1) to the Tribunal.

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The Recorder presented Exhibits R-2 into evidence and gave a brief description of the contents of the Unclassified Summary of Evidence (Exhibit R-1).

The Recorder confirmed that he had no further unclassified evidence or witnesses and requested a closed Tribunal session to present classified evidence.

The Tribunal President, referring to the Detainee Election Form, made the following statement:

Tribunal President: At this time I'm making reference to the Detainee Election Form. This indicates that the detainee has chosen to participate in this Tribunal, which is also evident because of your presence here today. You did request two off-island witnesses and unfortunately we have to determine that those witnesses that the detainee requested are not reasonably available. This is due to the reason that the Afghanistan government has not replied to the State Department's inquiries to date. The request was relayed to the United States State Department and subsequently to the Afghanistan Foreign Embassy. This was done on the 29th of December 2004 with a second and third request sent for an update through the state department to the Afghanistan Foreign Embassy on the 10th of January. With the 12th of January being the suspense date that was identified and having past, we will continue to proceed with the Tribunal as scheduled for today the 13th of January 2005. I want to be sure that the detainee understands that although those witnesses could not be here today to testify on his behalf we will not hold that against him. You also have requested that a Red Cross letter be produced as documentary evidence. Those documents have been identified and made available and your Personal Representative will be presenting those to this Tribunal on your behalf. Keep in mind we are not here to punish you today. We are here to make a determination of whether or not you have been properly classified as an Enemy Combatant. We will make that decision only after we have reviewed all of the evidence; classified, unclassified and also your information that you wish to provide us today. Mohammed Nasim you may now present any evidence or information you have to this Tribunal and you have the assistance of your Personal Representative in doing so. Do you still wish to present information to this Tribunal?

Detainee: Yes. I want to present something. The allegations that you kindly presented, none of them are true. I wasn't a commander, I haven't seen Kabul yet and the weapons you named here I don't even know these weapons.

Tribunal President: Before we continue, you may wish to make you statements under oath. Would you like to take an oath?

Detainee: You were talking about an oath. I was saying that I wasn't a commander, I haven't seen Kabul, and I was just a farmer working on my land. I am a hard worker.

Tribunal President: We have a Muslim oath available that the Recorder can administer if you would like to make your statement under oath.

Detainee: In our culture, for us it is very hard to do the oath because we have to first get ready for prayer, pray, wash up and then we do the oath. It is very hard.

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Tribunal President: This will be your choice. You can either take the Muslim oath or make your statement without taking the oath.

Detainee: It's up to you. Whatever you say I will do it.

Tribunal President: As long as it doesn't offend you and if you're willing to we will administer the Muslim oath. Keep in mind it is just a promise to tell the truth.

Detainee: In the name of Allah, I swear that what I say will be the truth. I'm saying the truth. I swear I was not a commander. I was at my house. The eight days of the holiday, we were butchering and getting the meat ready. Somebody called me and said come here.

Tribunal President: Very well. We will accept that as taking the oath. If you are comfortable, in that manner, that is certainly fine with this Tribunal. At this time with the assistance of your Personal Representative you may begin with your testimony.

The Tribunal President opened the Tribunal to the Detainee to make his statement.

3.a.1. The detainee commanded a squad of Mujahidin fighters for a Kabul commander.

Detainee: I was never been a commander. I never saw Kabul. I was always in my area, in my place, in my home farming. I was a farmer.

3.a.2. The detainee's squad consisted of twenty-five Mujahidin armed with twenty-three AK-47s, one RPK LMG and one RPG-7.

Detainee: I swear I don't know about the any of these weapons.

3.a.3. The detainee's name was referenced in intercepted radio transmissions regarding Northern Alliance troop movement.

Detainee: If they captured me in Shahmali (ph) in Northern Afghanistan that would be okay. I've never been in Shahmali (ph). I was at my brother's house. They captured me at my brother's house; I didn't have anything in my possession. I was just at my brother's house.

3.a.4. The detainee is alleged to have acted as a sentry to report troop movement to the Taliban.

Detainee: Actually it was the day after Eid and it was a holiday. In Afghanistan culture, we go first to the older people's house for respect and for greeting. I was going to my brother's house because he was older than me and he was very respectful for me. When I went there they had butchered a cow because that is the culture. I told my brother after we do all of the visits to people's houses we will go to our father's grave to give respect. The soldiers came and called me. My brother and I got into the vehicle with them. After I saw that they were handcuffing me and covering my eyes I said for God's sake what is going on, why are you doing this, what did I do? My hands had a lot of cramps from working so hard on my farm. They took me somewhere

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for two nights. Then after that they threw me in a plane and brought me somewhere else. I asked what is this place. They brought me to Kandahar and they said this is Kandahar. After six to seven days in Kandahar they threw us in a plane again and brought me to Bagram. I asked in Bagram why did they capture me, what is my crime, do you have any proof, do you have any documentation on me, did you capture something in my possession?

3.a.5. The detainee was reported to be part of an early warning system.

Detainee: I swear I didn't report any movement. I am not a member of any system. I don't know what an Enemy Combatant is. I swear I am none of them.

3.a.6. The detainee was captured on 11 February 2003, by United States forces in Afghanistan as a suspected Taliban.

Detainee: I don't know about any of the allegations you mentioned, none of them. I am not any of these allegations. I don't know about them either.

Tribunal President: We may have some questions for you. Does this complete your statement?

Detainee: This is all of my statement. I am a poor man. I swear to God I wasn't a commander. I don't know any of this you are talking about. I don't know what any of this stuff is. This is all of my statement.

Tribunal President: Very well we want to thank you for your testimony today. Personal Representative do you have any questions for the detainee?

Personal Representative's questions

Q. Mohammed Nasim, on the day you were captured were there any other people arrested at the same time you were?

A. There were two other people that were captured on the same day. There was one boy and one guy and they were sitting next to me. When they covered my eyes I do not know if they were still there or what have you.

Q. You do not know what happened to these people, or do you know what happened?

A. I don't know what happened to them. After they blinded my eyes, I don't know.

Q. What is the name of your village?

A. Warzai.

Q. Have you ever traveled in Afghanistan or outside of Afghanistan?

A. Since I knew my left and right hands I never went out of my village.

Q. Have you ever had a problem of being confused with someone else because of your name?

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A. My name is Mohammed Nasim I am not a Mullah. The letter you received is to Mohammed Nasim.

Q. Clarify that, what he just said. There was a letter from his father and his name is similar.

A. My name is Mohammed Nasim and my father is Salu.

Q. The answer to his question is that he has not been confused with people previously?

A. I don't know. I just know that my name is Mohammed Nasim. You probably know about that.

Q. When you were captured, did you resist during the capture? Did you struggle or fight with your captors?

A. No.

Q. It was mentioned that when you were captured, scraps of paper were in your pocket. Can you explain to the Tribunal what was written on the scraps of paper?

A. When I got captured I had nail clippers for my nails, comb for brushing my hair, a toothbrush, three small rocks and three Tariz (ph), which are verses of the Koran. It (Tariz) is for someone who is scared, or for love or protection. A lot of people in Afghanistan keep this on them.

Personal Representative: That's all the questions that I have.

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

Recorder: No sir, I do not.

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

Tribunal Team's questions

Q. Good afternoon. I want to try to follow on to a question that the Personal Representative asked you earlier. Are you aware of anyone else in your area where you are from with the same name as you or similar name as you?

A. I don't know about that.

Q. That's fine. Have you ever seen American forces in your area prior to the day you that were captured?

A. No I did not see any American forces prior to the day I got captured. I just saw them that day.

Q. Do you own any weapons? Including weapons to protect your home.

A. In my house I have none. I have nothing.

Q. Do you have a pair of binoculars?

A. What are binoculars? I swear I don't have this equipment.

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- Q. Have you ever owned or operated a radio before?
A. No I swear to God I don't have a radio and I don't know how to operate a radio either.
- Q. During the time of the Taliban government was there a local Taliban official in your village?
A. I don't want to lie to you. I haven't seen any of them. I was just doing my farming.
- Q. On the Detainee Election Form it says you are from Warzai in the district of Baghran, in the province of Helmand. Is that accurate?
A. Yes.
- Q. Are you familiar with the capital of Helmand, Lashkar Gah?
A. I'm not familiar with Lashkar Gah. I just know our district is Baghran and our province is Helmand and our village is Warzai.
- Q. I'm just trying to figure out whether Warzai is in the north part of Helmand or the south part of Helmand.
A. I don't know which way is north and which way is south.
- Q. Pakistan would be south. Were you close to Pakistan or not?
A. We are far away from Pakistan. We are kind of south. I can't tell if it the north side or the south but Pakistan is a way from our village.
- Q. Thank you. How many people live in your village?
A. There is a lot of people, maybe ten people. I had no close relationships with any of them. I was just busy working as a farmer.
- Q. How much land do you work?
A. Three to four yards. I was receiving the products for five to six Harwar.
- Q. How old are you?
A. I'm 55, maybe older but no younger than 55.
- Q. Did you fight against the Soviet Union when they invaded Afghanistan?
A. No. I never did jihad in my life.
- Q. Did you ever have any military training?
A. None.

Tribunal President's questions

- Q. You had indicated that you were you at your brother's house when you were captured? Is that correct?
A. Yes. It was the day after Eid. I went to my brother's house to say a blessing, eat and a greeting. It is our culture in Afghanistan, it is common when you have uncles from your

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mother's or father's side, or you have a brother that is older than you, you go to say a blessing or eat with them.

Q. Was there a large gathering of family at your brother's house?

A. No just me and one other person, someone younger than us. We were cutting the cow, the meat, and my brother said let's finish the meat and you take some to your house and I will keep some for my house. After that we were going to our father's grave.

Q. What is your brother's occupation?

A. He is older than me. He is a farmer.

Q. Has he always been a farmer?

A. All his life he has been a farmer or sometimes he brings wood to people for money, for his labor.

Q. At the time of your arrest, did they arrest anyone else; did they arrest your brother?

A. My brother came too; he sat with me too. My brother is very old. He is much older than me. They brought someone else, another young boy. After a couple minutes they covered my eyes.

Q. They let your brother go?

A. Of course they probably let him go, because he's not here. Maybe they let him go. He was very old.

Q. As far as you know, there was no one other than you when you were arrested brought here to Guantanamo Bay?

A. How am I the only person? Yes, I am alone in here.

Q. The allegations on the unclassified summary, why do you think you were identified with this information?

A. I'm surprised and amazed too! I don't know anything about any of these allegations. I am not involved with any of these allegations.

Q. Is there a possibility that you had some enemies that falsely accused you of any of these?

A. Only God knows if deep down I had someone as an enemy. I didn't have any enemies as far as I know.

Q. When the Taliban was in control of Afghanistan, did they ever come to your farm and require you to provide them support in any way?

A. No.

Q. Did you ever have any encounters with the Taliban or al Qaida forces?

A. I swear I don't even know the Taliban's history. I don't know the history of the Taliban or al Qaida. I wasn't involved.

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- Q. The two witnesses that you requested, one I believe is your uncle and one is your brother; as I indicated earlier they are not reasonably available to testify on your behalf today. Had they been available what would they have said? What information would they have provided to this Tribunal?
- A. They would probably say that none of these allegations about me are true. These are all false allegations. They will tell you I was a farmer. It was the day of the Eid when they came to our house and captured me.

Tribunal President: Again, I thank you for your testimony today. Are there any other questions? Mohammed Nasim, do you have any other information or evidence that you would like to present to this Tribunal or any other information that you feel is important that we should be aware of?

Detainee: I want to tell you one more thing about myself. I was poor that I borrowed a lot of money when I needed it. My income was not enough. Before I got captured I had maybe ten pounds of flour in my house and my daughter got burned on her hands and her feet a little bit. I didn't even have money to get her treatment. I am that unable and a poor person.

The Tribunal President confirmed with the Personal Representative that he has further evidence to submit during the unclassified portion of the Tribunal and that the Detainee had no previously approved witnesses to present to the Tribunal.

Personal Representative: Yes sir I have two personal letters to Mohammed Nasim from his family. I would like to enter them to the Tribunal as Exhibit D-b and D-c.

The Tribunal President explained the remainder of the Tribunal process to the Detainee and adjourned the open session.

AUTHENTICATION

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

(b)(5)



Tribunal President

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