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No. UNDER SEAL

IN THE
SUPREME COURT OF THE UNITED STATES

ADNAN FARHAN ABDUL LATIF,
Petitioner,

v.

BARACK OBAMA, ET AL.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CLASSIFIED APPENDIX: VOLUME II

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United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 10-5319

September Term, 2010

FILED ON: OCTOBER 14, 2011

ADNAN FARHAN ABDUL LATIF, DETAINEE, CAMP DELTA, ET AL.,
APPELLEES

v.

BARACK OBAMA, PRESIDENT OF THE UNITED STATES, ET AL.,
APPELLANTS

Appeal from the United States District Court
for the District of Columbia
(No. 1:04-cv-01254)

Before: HENDERSON, TATEL and BROWN, *Circuit Judges*

JUDGMENT

This cause came on to be heard on the record on appeal from the United States District Court for the District of Columbia and was argued by counsel. On consideration thereof, it is

ORDERED and **ADJUDGED** that the judgment of the District Court appealed from in this cause is hereby vacated, and the case is remanded for further proceedings, in accordance with the opinion of the court filed herein this date.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

/s/
Jennifer M. Clark
Deputy Clerk

Date: October 14, 2011

Opinion for the court filed by Circuit Judge Brown.
Opinion concurring in the judgment filed by Circuit Judge Henderson.
Dissenting opinion filed by Circuit Judge Tatel.

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**UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLUMBIA**
MAHMOAD ABDAH, et al.,
Petitioners,
v.
BARACK H. OBAMA, et al,
Respondents.
Civil Action No. 04-1254 (HHK)
MEMORANDUM OPINION

Adnan Farhan Abd Al Latif (ISN 156), a Yemeni citizen, was seized by Pakistani authorities in late 2001 and has been held by the United States at the naval base detention facility in Guantanamo Bay, Cuba since January 2002. Latif has filed a petition for a writ of habeas corpus contending that he is unlawfully detained. Respondents in this case, President Barack H. Obama and other high-level officials in the United States Government, argue that Latif is lawfully detained and therefore should remain in U.S. custody. The parties filed cross-motions for judgment on the record and appeared before the Court for a hearing on the merits of Latif's petition on June 7 and 8, 2010. Upon consideration of the motions and the evidence presented at the merits hearing, the Court concludes that respondents have failed to demonstrate that the detention of Latif is lawful. Therefore, Latif's petition shall be granted.

I. LEGAL STANDARDS
A. Scope of the Government's Detention Authority

The Authorization for Use of Military Force ("AUMF"), Pub. L. No. 107-40, 115 Stat. 224 (2001), authorizes the President to "use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the

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terrorist attacks that occurred on September 11, 2001, or 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.” Pub. L. 107-40, § 2(a), 115 Stat. at 224. The U.S. Supreme Court has held that the District Court for the District of Columbia has jurisdiction over petitions for writs of habeas corpus brought by detainees held at Guantanamo Bay pursuant to the AUMF. See *Boumediene v. Bush*, 553 U.S. 723, —, 128 S. Ct. 2229, 2274 (2008); *Rasul v. Bush*, 542 U.S. 466, 483-84 (2004). The Supreme Court has provided “scant guidance,” however, as to whom respondents may lawfully detain under the statute. *Al-Bihani v. Obama*, 590 F.3d 866, 870 (D.C. Cir. 2010) (noting that the Supreme Court has “consciously le[ft] the contours of the substantive and procedural law of detention open for lower courts to shape in a common law fashion” (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 522 n.1 (2004) (plurality opinion of O’Connor, J.); *Boumediene*, 128 S. Ct. at 2276)).

In the absence of controlling law governing the question of by what standard to evaluate the lawfulness of the detention of the individuals held at Guantanamo Bay, judges of this District thoroughly and thoughtfully addressed this issue, and this Court adopted the reasoning and conclusions of Judge Bates in *Hamlily v. Obama*, 616 F. Supp. 2d 63 (D.D.C. 2009), and Judge Walton in *Gherebi v. Obama*, 609 F. Supp. 2d 43 (D.D.C. 2009), in its previous opinions ruling on these habeas petitions. Although the D.C. Circuit “has yet to delineate the precise contours” of the proper legal standard, it has consistently accepted the proposition that any individual who was “part of” Al Qaeda or the Taliban may be detained pursuant to the AUMF. *Barhoumi v. Obama*, — F.3d —, 2010 WL 2553540, at *8 (D.C. Cir. June 11, 2010); see also *Odah v. United States*, — F.3d —, 2010 WL 2679752 at *8 (D.C. Cir. June 30, 2010) (“The only remaining

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question is whether all the evidence before the district court was sufficient to support its finding that al Odah was 'part of' the Taliban and al Qaeda forces."); *Bensayah v. Obama*, — F.3d —, 2010 WL 2640626, at *5 (D.C. Cir. June 28, 2010) (noting that "we have made clear . . . that the AUMF authorizes the Executive to detain, at the least, any individual who is functionally part of al Qaeda" (citations omitted)); *Awad v. Obama*, — F.3d —, 2010 WL 2292400, at *10 (D.C. Cir. June 2, 2010) (holding that demonstrating that "a detainee was part of the 'command structure' of al Qaeda" is sufficient but not necessary "to prove that a detainee is 'part of' al Qaeda"). Accordingly, in this case, the Court will assess whether respondents have shown that Latif is part of Al Qaeda or the Taliban.

B. Burden of Proof

As stated in the Amended Case Management Order that governs this case, "[t]he government bears the burden of proving by a preponderance of the evidence that the petitioner's detention is lawful." *In re Guantanamo Bay Litig.*, Misc. No. 08-442, CMO § II.A (Nov. 6, 2008).¹ Accordingly, Latif need not prove that he is unlawfully detained; rather, respondents must produce "evidence which as a whole shows that the fact sought to be proved," that Latif was part of Al Qaeda or the Taliban, "is more probable than not." *United States v. Mathis*, 216 F.3d 18, 28 (D.C. Cir. 2000) (quoting *United States v. Montague*, 40 F.3d 1251, 1255 & n.2

¹ The D.C. Circuit has held that "[a] preponderance of the evidence standard satisfies constitutional requirements in considering a habeas petition from a detainee held pursuant to the AUMF." *Awad*, 2010 WL 2292400, at *9; *see also Al-Bihani*, 590 F.3d at 878 (rejecting Guantanamo Bay detainee's argument that application of the preponderance of the evidence standard in his habeas case was unconstitutional). It has yet to decide, however, whether that standard is required. *See Al-Adahi v. Obama*, — F.3d —, 3020 WL 2756551, at *3 (D.C. Cir. July 13, 2010) ("Although we doubt . . . that the Suspension Clause requires the use fo the preponderance standard, we will not decide that question in this case.").

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(D.C. Cir. 1994)). If respondents do not meet this burden, the Court must grant Latif's petition and order his release.

C. Evidentiary Issues

The Court notes at the outset two issues regarding the evidence in this case.

First, as explained in an order entered in this case on August 26, 2009 [#606], the Court has permitted the admission of hearsay evidence but considers at this merits stage the accuracy, reliability, and credibility of all of the evidence presented to support the parties' arguments. This approach is consistent with a directive from the D.C. Circuit. *See Al Bihani*, 590 F.3d at 879 (“[T]he question a habeas court must ask when presented with hearsay is not whether it is admissible—it is always admissible—but what probative weight to ascribe to whatever indicia of reliability it exhibits.”); *see also Odah*, 2010 WL 2679752, at *5 (holding that “the law is against” a detainee who argued that some types of hearsay are not admissible in these Guantanamo Bay cases); *Awad*, 2010 WL 2292400, at *5 (reaffirming the rule articulated in *Al Bihani* and noting that a district court errs not by relying on hearsay, but by relying on “unreliable hearsay”). The Court's assessment of the weight properly accorded to particular pieces of evidence appears throughout this memorandum opinion.

Second, the nature of the evidence before the Court is atypical of evidence usually presented in federal actions. Respondents have offered a variety of types of documents produced and used by government intelligence agencies that are not the direct statements of the individuals whose personal knowledge they reflect. The evidence in this case includes Form 40s (“FM40s”), Summary Interrogation Reports (“SIRs”), Intelligence Information Reports (“IIRs”), Memoranda for Records (“MFRs”), Field Documents (“FD-302s”), and [REDACTED]

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FM40s are records of investigation activities, here witness interviews, conducted by the Criminal Investigation Task Force, a federal law enforcement agency. SIRs are summaries of interrogations conducted under the auspices of the Department of Defense. IIRs are Department of Defense documents for recording human intelligence, which may contain information derived from an IIR.² MFRs are similar to SIRs. FD-302s are forms completed by FBI agents summarizing interviews. [REDACTED] Neither party called any live witnesses.

II. ANALYSIS

The parties agree about certain facts of Latif's background and travel but dispute others. Latif, or ISN 156,³ was born in 1976 and grew up in a village in Yemen called Udayn. It is undisputed that in 1994, he sustained head injuries as the result of a car accident and the Yemeni government paid for him to receive treatment at the Islamic Hospital in Amman, Jordan. According to Latif, his treatment was incomplete and, because he could not afford the follow-up care he needed to alleviate significant lingering discomfort, he sought charitable assistance. The parties agree that in 2000, Latif met a man named Ibrahim. Latif asserts that Ibrahim promised to arrange free medical care for him in Pakistan; respondents argue instead that Ibrahim was a recruiter for Al Qaeda who encouraged Latif to go to Afghanistan to receive military training and/or fight jihad.

² Human intelligence, or HUMINT, is "information derived from a person(s)." Joint Exhibit ("JE") 36 at 1.

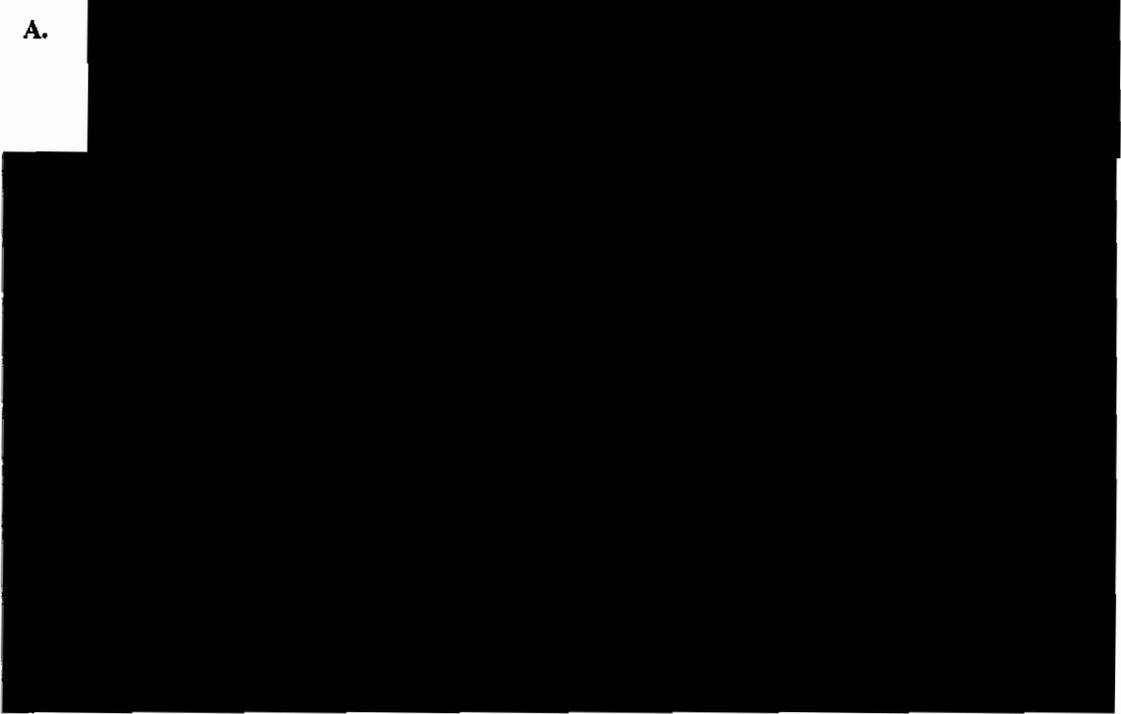
³ ISN stands for Internment Serial Number. Each detainee at Guantanamo Bay has been assigned such a number.

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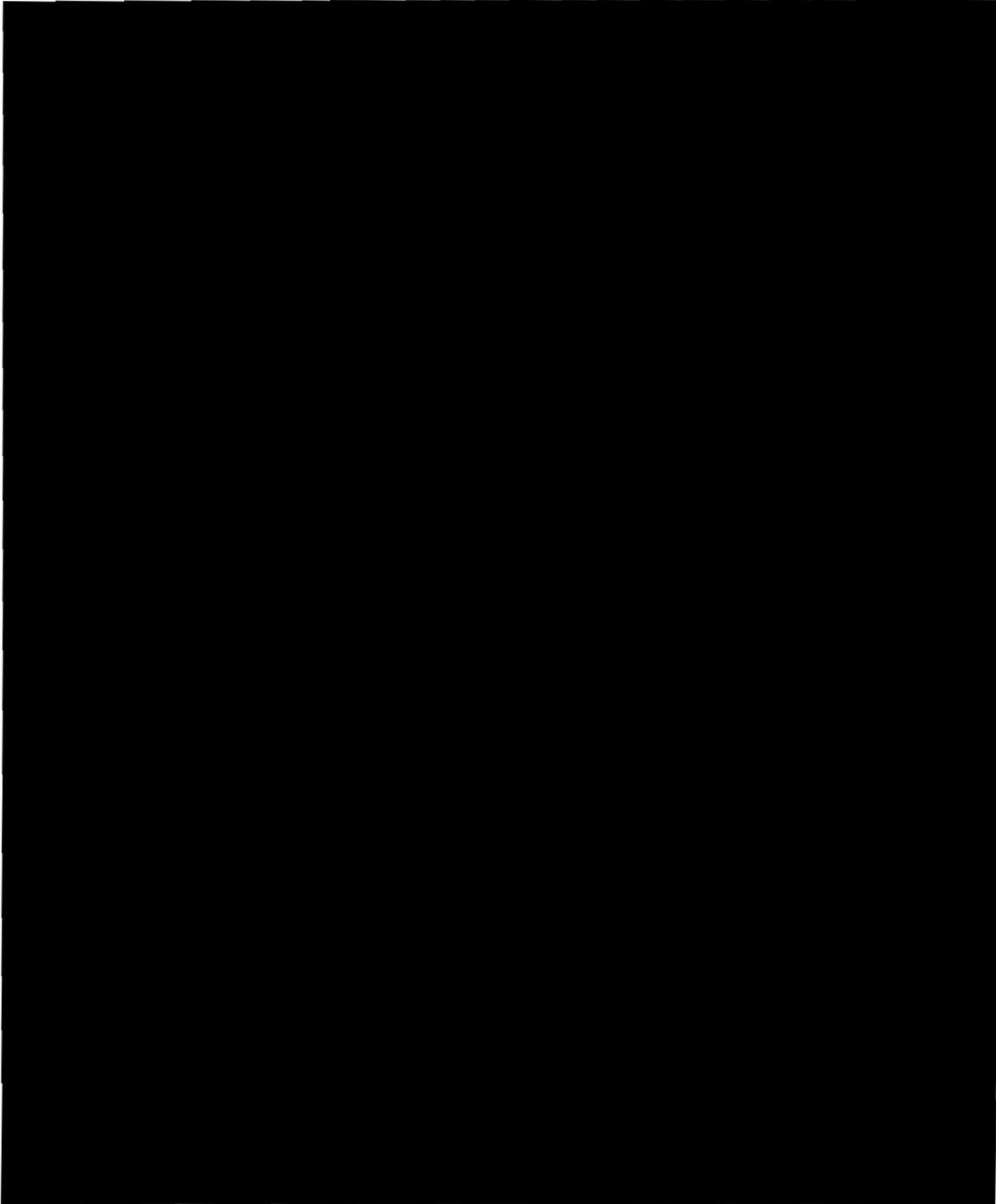
The parties do not dispute that in August 2001, Latif left Yemen, went to Pakistan, and soon traveled to the area around Kabul, Afghanistan. Latif asserts that while in Afghanistan, he stayed at an Islamic studies center waiting for Ibrahim to arrange his medical treatment; respondents allege that Latif went to a military training camp and fought with the Taliban in an area north of the city. Respondents and Latif agree that Pakistani police seized Latif near the border of Afghanistan and Pakistan on an unknown date in late 2001. He was transferred to United States custody in late December of that year. In mid-January 2002, he was sent to Guantanamo Bay, where he has been held since.

This memorandum opinion describes and analyzes the evidence the parties have submitted to determine whether respondents have shown that Latif is lawfully detained pursuant to the AUMF.

A. 

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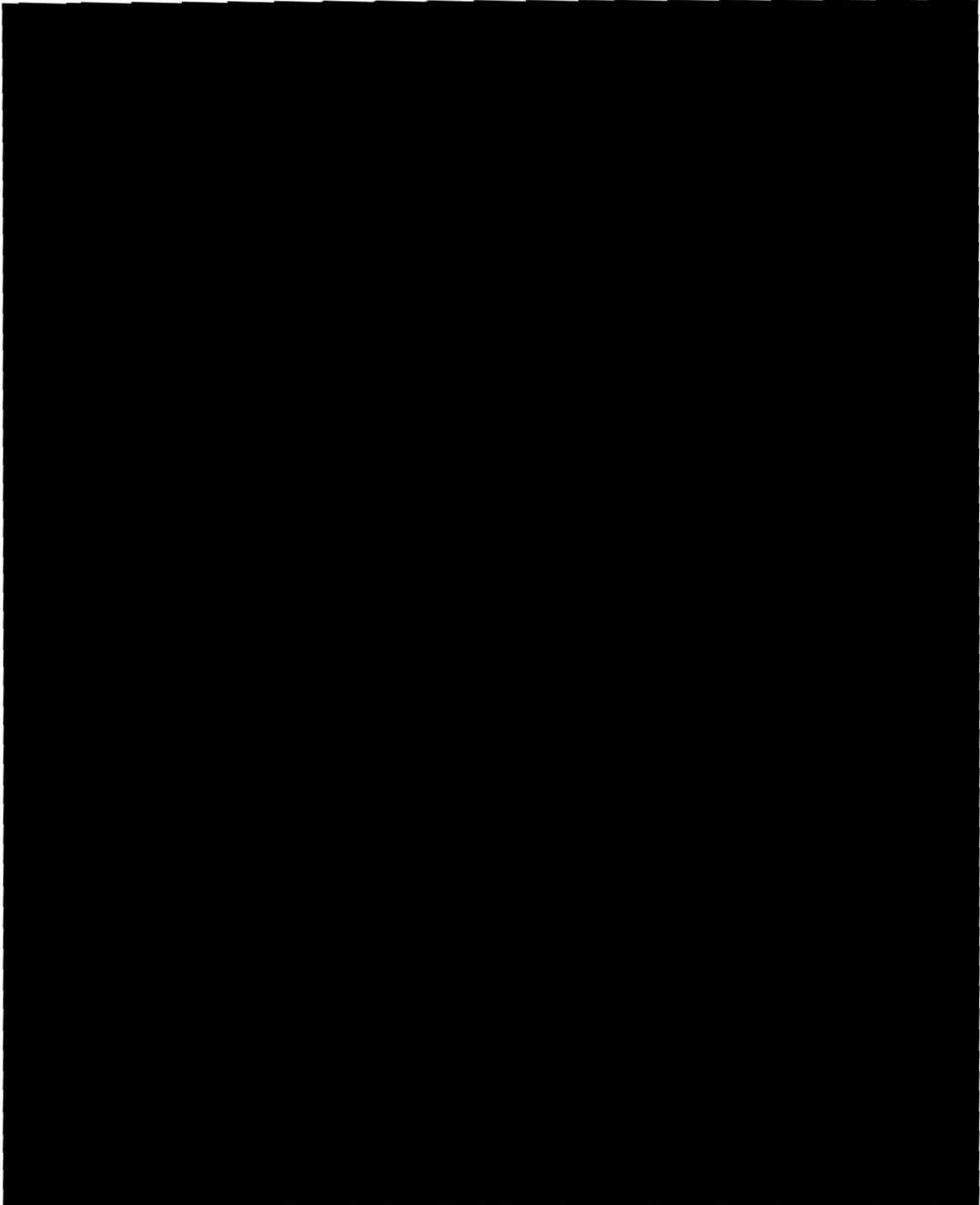
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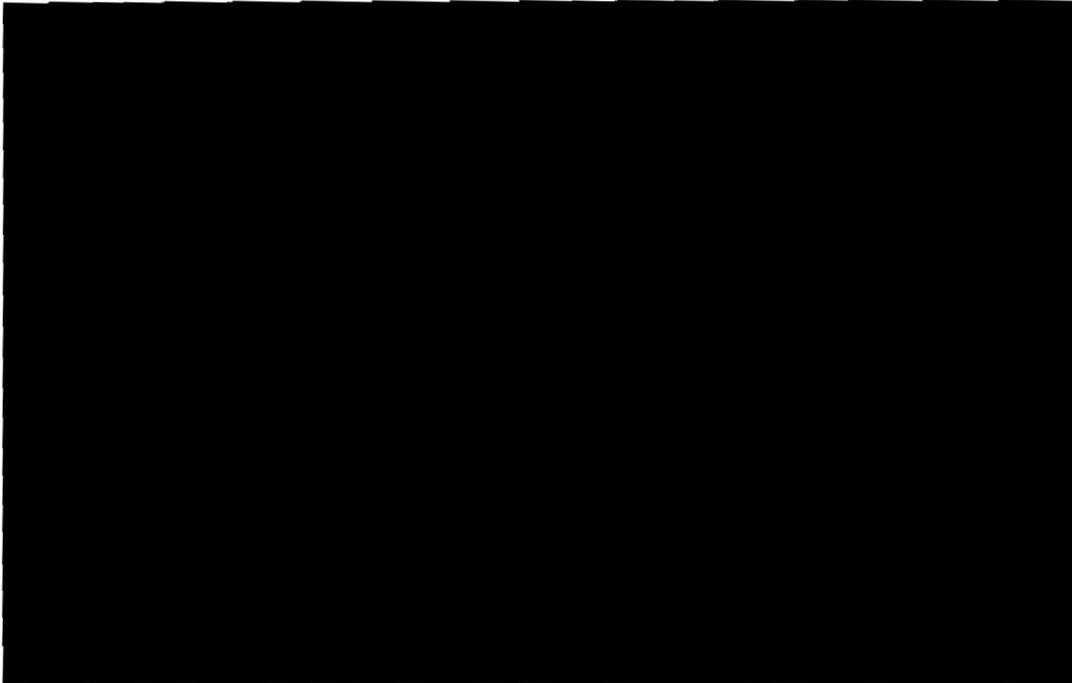
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~~SECRET~~**B. Respondents' Case**

[REDACTED] respondents argue that Latif was recruited to travel to Afghanistan by a member of Al Qaeda and received military training from, and then fought with, the Taliban.

1. Respondents argue that Ibrahim was Abu Khalud, an Al Qaeda facilitator.

Respondents first argue that the person who persuaded Latif to travel to Afghanistan, [REDACTED], is Abu Khalud, an Al Qaeda facilitator. It is not disputed that Abu Khalud also went by the name Ibrahim Ba'alawi.

Respondents point to statements reportedly made by other Guantanamo Bay detainees who traveled to Afghanistan at the suggestion of Abu Khalud to show, as to each statement [REDACTED] [REDACTED] about Ibrahim, the similarities between their stories [REDACTED]

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First, respondents cite interrogation summaries that indicate that other men met Abu Khalud in Taiz, Yemen, which is in the same area of Yemen as Udayn, the village where Latif lived,

[REDACTED]

[REDACTED] JE 5 (IIR derived from an FD-302² [REDACTED] summarizing an interrogation of ISN [REDACTED] at 4 (reporting that ISN [REDACTED] "stated [REDACTED] also known as [REDACTED] is a prayer leader" at a mosque in Taiz); JE 11 (IIR reporting information derived from an interrogation of ISN 1457² [REDACTED] at 3 (indicating that ISN 1457 said "Ibrahim ((Balaalawi)), aka Abu Khulud, was a facilitator in Taiz, [Yemen]").

Next, respondents cite sources that indicate that Abu Khalud discussed jihad with men he encouraged to go to Afghanistan for military training [REDACTED]. See JE 7 (FD-302, dated 2 [REDACTED], summarizing interrogation of ISN [REDACTED] at 1 (reporting that ISN [REDACTED] said [REDACTED] talked about "the training camps in Afghanistan" and "how they should travel to Palestine to fight the Jews"); JE 8 (FD-302, dated 2 [REDACTED], of interrogation of ISN [REDACTED] at 2 (reporting that ISN [REDACTED] said [REDACTED] told him he should go to Afghanistan to receive military training so he could fight Russians in Chechnya).

Respondents further contend that Abu Khalud arranged travel for other detainees along the same route Latif reportedly took to Afghanistan: Abu Khalud sent each detainee on a flight from Sanaa, Yemen, to Karachi, Pakistan, and then by bus through Quetta, Pakistan to Kandahar, Afghanistan. See, e.g., JE 8 at 2-3 (reporting that ISN [REDACTED] told his interrogator that [REDACTED]

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arranged for his trip, which involved a flight from Sanaa to Karachi, a bus ride to Quetta, and another bus ride to Kandahar).

[REDACTED]

Finally, other detainees told interrogators that Abu Khalud arranged for them to attend a military training camp and/or to fight in battle. [REDACTED]

[REDACTED]

[REDACTED] JE 7 at 1 (reporting that ISN [REDACTED] said that after [REDACTED] recruited him, he went to Al Farouq, a training camp, and to the site of a battle north of Kabul, Afghanistan); JE 8 at 3-4 (reporting that ISN [REDACTED] said he attended "a training camp outside of Kabul" as well as other training camps after traveling to Afghanistan at the suggestion of [REDACTED]).

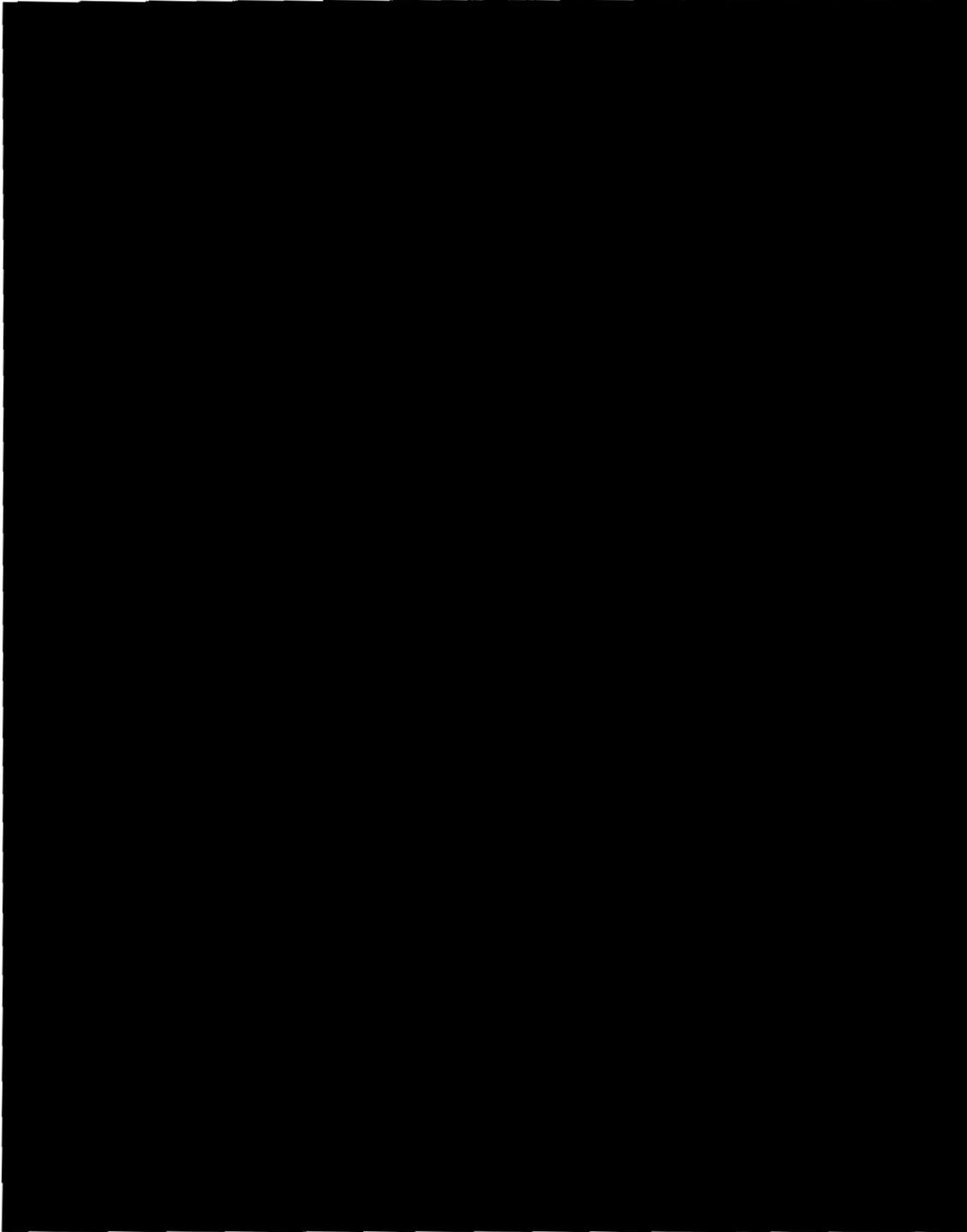
Respondents argue that Ibrahim's identity is significant. They assert that because Ibrahim was a facilitator for Al Qaeda who encouraged and assisted men who fought on behalf of the Taliban to travel to Afghanistan, their theory that Latif became a fighter after leaving Yemen is likely to be accurate.

2. [REDACTED]

[REDACTED]

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[REDACTED]

Based on their contentions that Latif was recruited by Abu Khalud and trained and fought with the Taliban in Afghanistan, respondents ask the Court to conclude that Latif is lawfully detained.

B. Latif's Arguments

Latif argues that respondents' reliance on [REDACTED] is misplaced because the document is inherently unreliable and because more reliable reports [REDACTED] contradict the information it contains. Latif asserts that the information in these other statements demonstrate that the man he met named Ibrahim was not Abu Khalud and that Latif neither trained nor fought with the Taliban but instead was in Pakistan and Afghanistan to seek medical care.

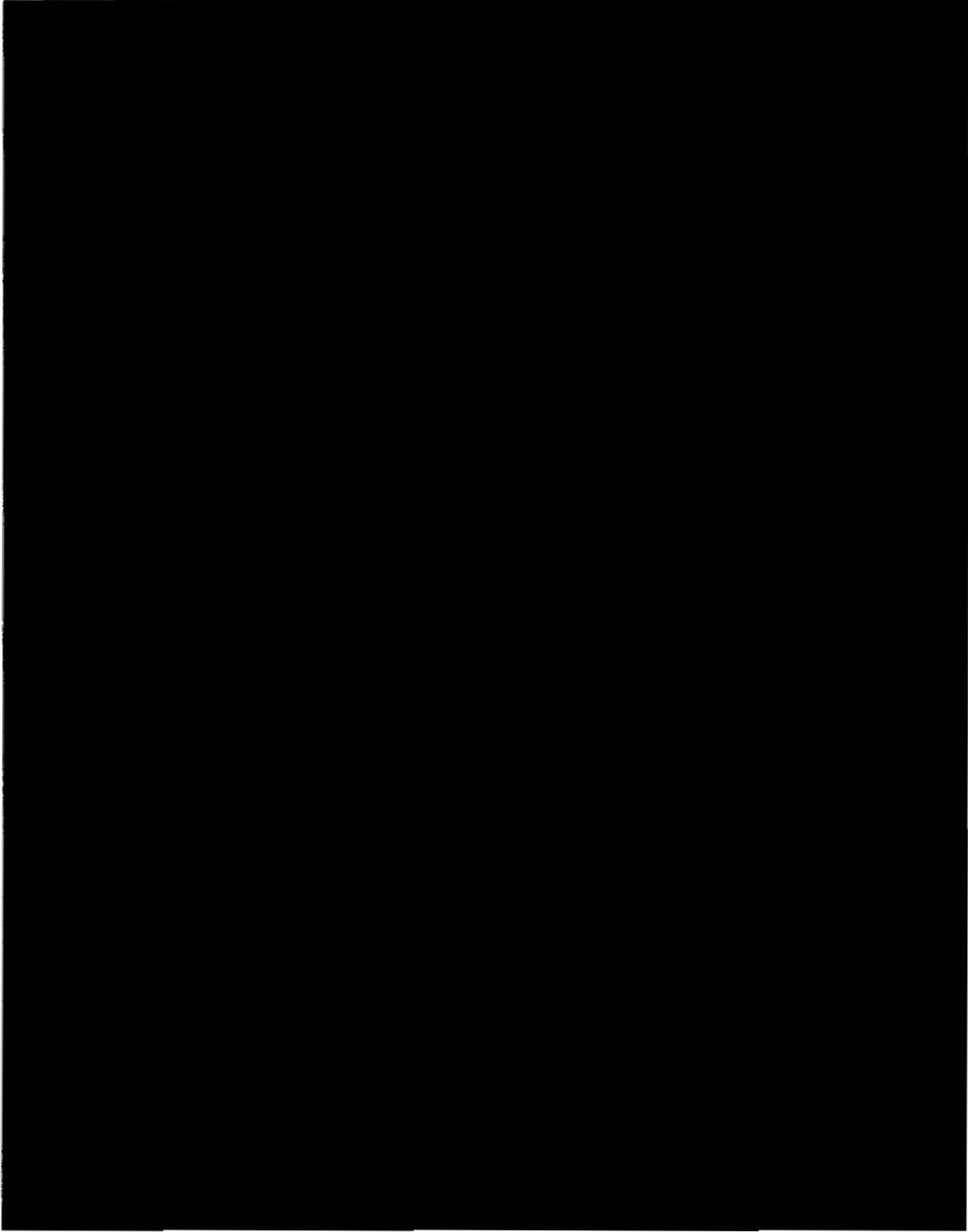
1. Latif argues that [REDACTED] is not reliable.

Latif asserts [REDACTED] and offers several reasons the Court should not rely on them.

First, Latif argues that the circumstances of [REDACTED] creation call into question its reliability. [REDACTED]

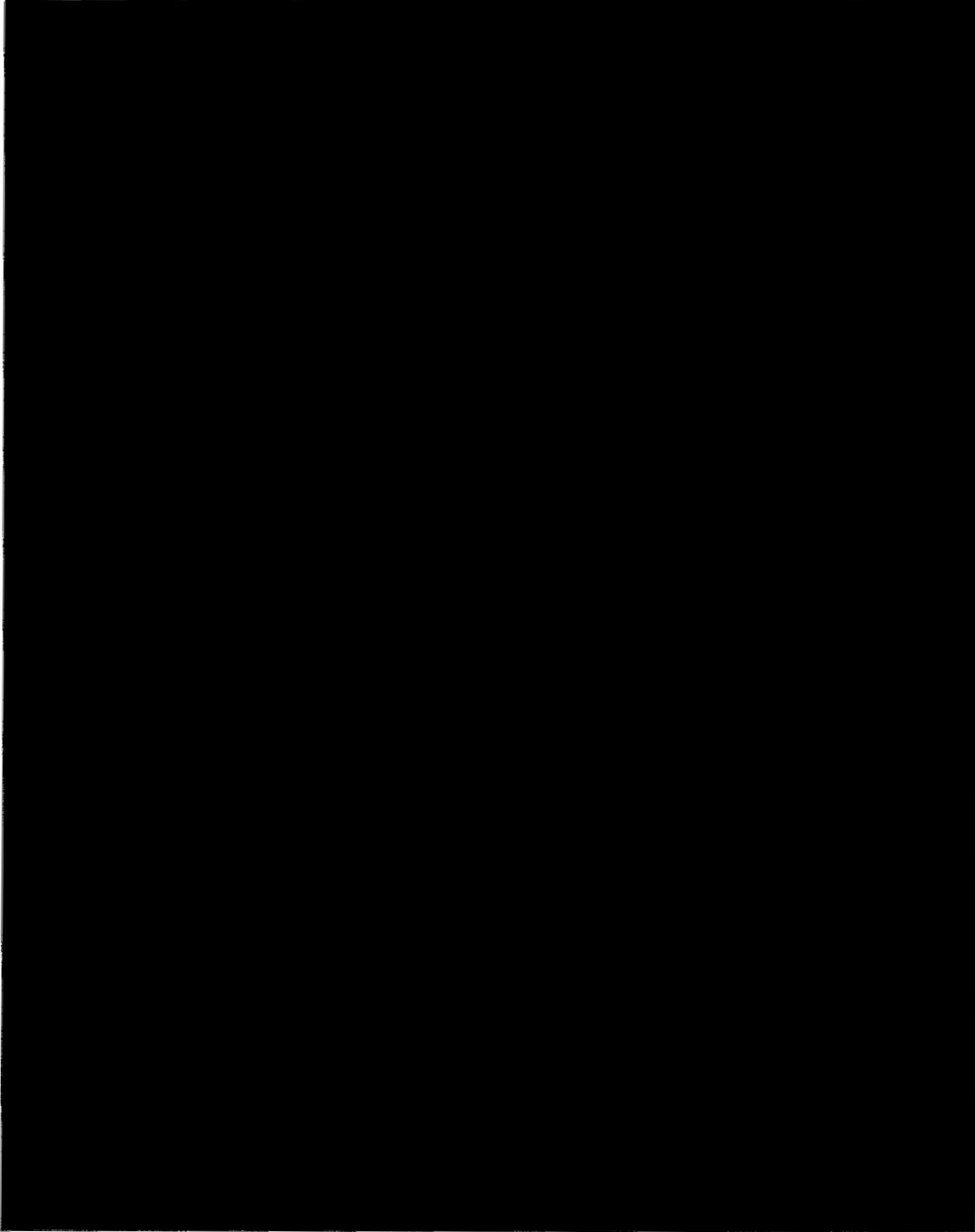
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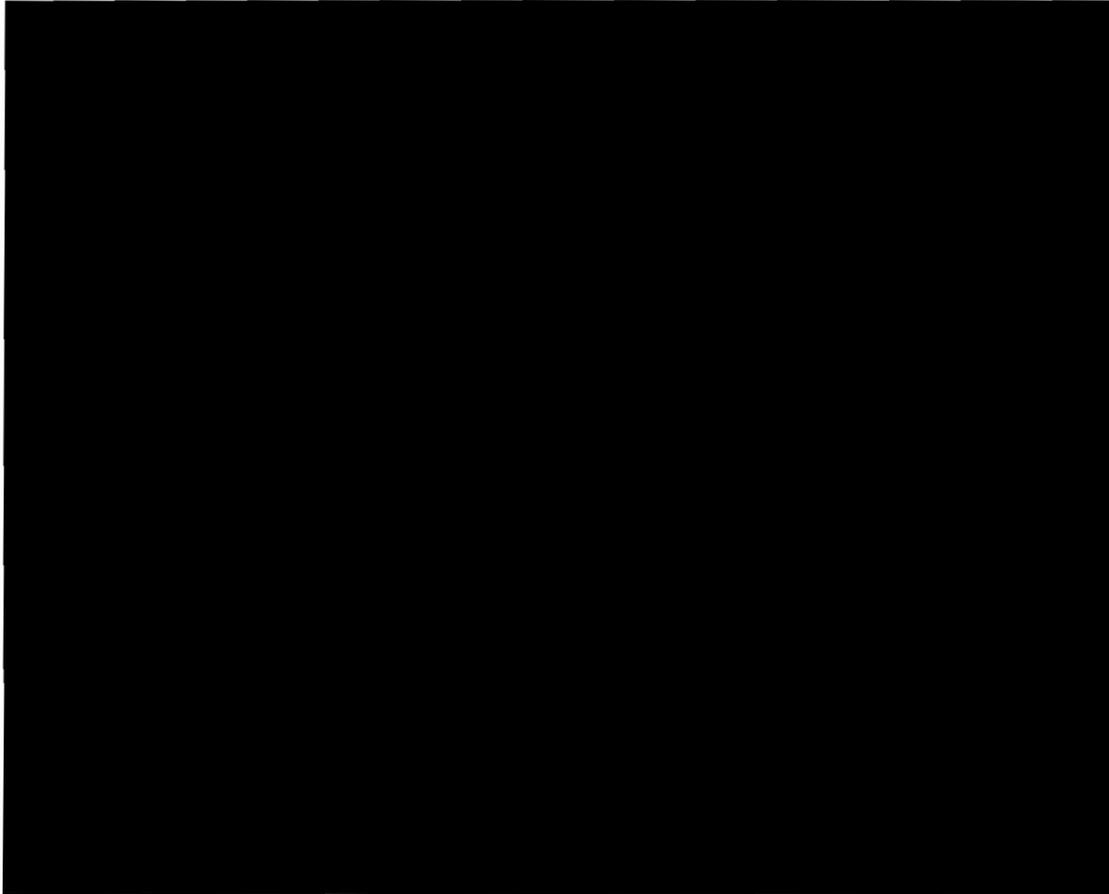


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In addition to these arguments about the document itself, Latif places great emphasis on the fact that [REDACTED] are not corroborated by any other evidence in the record. Respondents have not produced, he notes, any evidence that any other detainee ever said he saw Latif at a guesthouse, training camp, or battlefield. *See* JE 80 (Department of Defense Criminal Investigation Task Force Memorandum recommending Latif's release) at 2 ("No other detainees have identified [Latif], except as having been seen at various detention facilities."). Furthermore, Latif points out that respondents themselves appear not to have relied on [REDACTED] in assessing his detention. Specifically, the Department of Defense determined in 2004 that Latif

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“is not known to have participated in combatant/terrorist training,” JE 79 (Joint Task Force Guantanamo Memorandum recommending transfer of Latif for continued detention in another country² [REDACTED] at 5, and respondents determined in 2007 that Latif should be transferred away from Guantanamo Bay “subject to the process for making appropriate diplomatic arrangements for his departure,” Pet’r’s Mot. to Set Hearing Dates for ISN 156 [], Ex. A (email from Department of Defense employee to counsel for Latif (Feb. 22, 2007)) at 1 [#728], which was not completed.

2. Latif argues that Ibrahim was not Abu Khalud.

Latif asks the Court to consider other evidence in the record [REDACTED]. Specifically, as to respondents’ assertion that Abu Khalud encouraged Latif to travel to Afghanistan, Latif argues that the statements he has made about Ibrahim Alawi during various interrogations while held at Guantanamo Bay demonstrate that the man who encouraged him to leave Yemen was not Abu Khalud.

First and most significantly, Latif has repeatedly asserted that Ibrahim was a humanitarian who offered to help arrange free medical care for him. *See* JE 25 at 1 (“[Latif] went to a local relief agency –Hikmat– seeking financial assistance for his medical problems and met an individual named Ibrahim ((Aliwee)), who offered him help. . . . Ibrahim told [Latif] that he could get [Latif] free medical help in [Pakistan].”); JE 24 (FD-302 summarizing² [REDACTED] interrogation of Latif) at 1 (“[Latif] contacted the Al Hijma organization and dealt with an individual named [REDACTED] recommended a hospital in Pakistan and told [Latif] that his organization, Al Hijma, would pay for his treatment”); JE 27 (FD-302 summarizing² [REDACTED] interrogation of Latif) at 1-2 (“Latif met a man from his home town Ebb, Yemen,

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named [REDACTED] who collected money and controlled a charity called Gameiat Al Hekma. . . . [REDACTED] collected money for his charities from all of the Gulf states. . . . Latif indicated that the reason he traveled to Afghanistan from Yemen was to seek medical treatment for his injured ear. The trip was sponsored by [REDACTED]. . . ."); JE 28 (FD-302 dated 2 [REDACTED] summarizing interrogation of Latif) at 1 ("[Latif] was in Pakistan because [REDACTED] a Yemeni man who was a humanitarian, took him to the hospital there."); JE 29 (FM40 summarizing Jan. 9, 2004 interrogation of Latif) at 1 ("[Latif] met Ibrahim Aliwee, who was associated with Al-Hikmah, a charitable organization. Aliwee told [Latif] that he could receive free medical care in Pakistan."); JE 31 (Enemy Combatant Election Form, dated March 28, 2005) at 1 (noting that "[i]n response to the allegation that Ibrahim Aliwee is a probable member of al Qaida, [Latif] stated that Ibrahim only provided humanitarian aid and did not know of any of his affiliations"). Latif notes that other [REDACTED] which, as explained, he argues is not reliable, there is no suggestion in the record that anything about Latif's interactions with Ibrahim indicated that Ibrahim had any connection to Al Qaeda, the Taliban, or any other terrorist group.

Second, Latif asserts it is significant that the name he used when describing Ibrahim—Ibrahim Alawi—is different from the name other detainees have used when talking about Abu Khalud—Ibrahim Ba'alawi. All reports of Latif's statements in the record indicate that Latif said the man he met was named Ibrahim Alawi, or some variant of that last name, without a "B." See [REDACTED] JE 23 at 1 (referring to "Ibrahim ((Aliwee)")); JE 25 at 1 (referring to "Ibrahim ((Aliwee)")); JE 24 at 1 (referring to [REDACTED] JE 86 at 4 (referring, in less than fully clear handwriting, to "Ibrahim Allum"

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or perhaps another name beginning with the letters "Al"). All but one of the detainees whose interrogation summaries are included in the record because they refer to Abu Khalud use the name Ibrahim Ba'alawi. *See, e.g.*, JE 5 at 4 (referring to "Ibraheim ((Ba'alawi))"); JE 92 (FD-302 summarizing² [REDACTED] interrogation of ISN [REDACTED] at 1 (referring to [REDACTED] JE 11 at 3 (referring to "Ibrahim ((Balaalawi))"); *but see* JE 57 (SIR summarizing² [REDACTED] interrogation of ISN 688) at 1 ("[ISN 688] explained that his facilitator Rahim Allawi and Abu Khullud are the same person.").¹⁰ Expert declarations Latif submitted to the Court indicate that Alawi and Ba'alawi are different, common names in Yemen, JE 94 (Decl. of Abdul-Ghani Al-Iryani) ¶ 2; JE 95 (Decl. of Jonathan A. C. Brown) ¶ 2, suggesting, Latif asserts, that Latif and the other detainees would not have mistaken one for the other.

Latif further notes that he has never referred to the Ibrahim he met as Abu Khalud, whereas the detainees whose interrogation reports are cited do use that name. *See, e.g.*, JE 3 (FM40 summarizing interrogations of ISN 39 on May 18 to 20, 2003) at 1 ("[ISN 39] advised Abu Khalud Al-Yemeni . . . assisted in facilitating his travel from Yemen to Afghanistan."); JE 5 at 4 ("[ISN 193] stated Abu ((Khloud)) . . . paid for [ISN 193]'s travel to Pakistan and Afghanistan."); JE 8 at 1 ("[ISN [REDACTED] met an individual at the mosque named [REDACTED]

Latif also argues it is significant that the physical description he gave of Ibrahim does not match the descriptions of Abu Khalud included in the interrogation reports of several other

¹⁰ Latif suggests that because this outlier detainee also apparently pronounced "Ibrahim" without the "B" sound—he said "Rahim," JE 57 at 1—he might have had some sort of speech impairment that prevented him from pronouncing "Ba'alawi" correctly. He also notes that another statement this detainee reportedly made to interrogators conflicted with the statements of several other detainees such that this Court found, in another Petitioner's case, that it was not credible. *See Abdah v. Obama*, — F. Supp. 2d —, 2010 WL 2326041, at *11.

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detainees. According to notes an FBI interrogator took during an interrogation of Latif in May 2002, Latif said [REDACTED] was “30-40 [years] old,” five feet seven inches tall, “skinny,” with “fairer” skin and a “big beard.” JE 86 at 4. Other men described Abu Khalud as younger and heavier, and some noted that he had a noticeable injury to or scar on his face. See Petitioner’s Exhibit (“PE”) 1 (2002 IIR containing a “biographic report on Ibrahim ((Alawi))” whose alias was “Abu ((Khalut)),” based on information from a detainee held at Bagram) at 1-2 (noting Abu Khalud was born in 1975—27 years before the IIR was created—listing Abu Khalud’s weight as “heavy” and build as “a little rotund,” and stating that in 1996, Abu Khalud “had a plastic plate on the left side of his skull, where he had been shot in Bosnia”); JE 96 (SIR ² [REDACTED] interrogation of ISN 498) at 1 (reporting that ISN 498 described Abu Khalud as “very fat” and “slightly older than the detainee,” who was twenty-six years old at the time of the interrogation, but stated that Abu Khalud “has no distinguishing marks such as scars”); JE 43 (SIR summarizing ² [REDACTED] interrogation of ISN 215) at 2 (reporting that ISN 215 said Abu Khalud “was approximately 30-years-old in 2001,” “was a big guy, well-built, maybe 80 or 90 kilos,” the equivalent of about two hundred pounds); JE 8 at 1 (reporting that ISN [REDACTED] said [REDACTED] was twenty-seven years old, had a “[l]arge” build, and had a “[r]ound scar in middle of forehead from bullet injury); JE 6 at 1 (reporting that ISN 223 said Abu Khalud had a “stocky” build but had no scars).

According to Latif, other details counter respondents’ contention that Ibrahim Alawi and Abu Khalud are the same person. Several detainees said that Abu Khalud was from Taiz, Yemen or was affiliated with a mosque there, *see, e.g.*, JE 5 at 4 (reporting that ISN 193 said Abu Khalud was a “prayer leader” at a mosque in Taiz); JE 6 at 1 (reporting that ISN 223 said Abu

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Khalud was from Taiz); JE 8 at 1 (reporting that ISN ██████ met ██████ at a mosque in Taiz), but Latif said ██████ was from Ibb, a town near but distinct from Taiz, and was affiliated with humanitarian organizations, *see* JE 25 (SIR² ██████ interrogation of Latif) at 1 (reporting that Latif said “Ibrahim was from a town called Ibb,” that he met Ibrahim at “a local relief agency” called “Hikmat,” and that Ibrahim “ran his own relief type agency called –Jamiat An-Nur–”); *see also* JE 65 at 1 (map of Yemen showing the locations of Ta’iz and Ibb). In addition, an interrogation report indicates that a detainee said Abu Khalud had a daughter named ██████⁶ PE 1 at 2, but Latif told an interrogator that Ibrahim had a son named ██████⁶ and a daughter named ██████⁶ JE 86 at 4.

Because, according to Latif, Ibrahim Alawi was not Abu Khalud, Latif’s interaction with Ibrahim does not make it likely that Latif traveled for the purpose of participating in military training or fighting or was inclined to do so.

3. Latif argues that he left Yemen in search of free medical care.

i. Latif’s explanation

As to respondents’ allegations that Latif trained and fought with the Taliban, Latif argues that his alternative explanation of his activities between August and December 2001 contradict and disprove them.¹¹ During the many interrogations in which Latif has participated ██████

¹¹ ██████

██████ He stated during his Combatant Status Review Tribunal (“CSRT”) hearing that “[t]he information in the unclassified summary” before the Tribunal, which included the allegation that he was “an al Qaida fighter” and “train[ed] at the al-Farouq training camp in Afghanistan,” was “incorrect” and “not about me.” JE 30 (undated transcript of CSRT proceedings) at 3-4. In March 2005, apparently in preparation for an Administrative Review Board (“ARB”) proceeding, and then again at the ARB hearing itself, Latif said he did not travel to fight or train. JE 31 at 1; JE 33 at 1. The declaration he prepared for use in this litigation asserts that the allegation that his

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[REDACTED] Latif has repeatedly said that he left Yemen solely for the purpose of receiving medical treatment. He asserts that he was in a car accident as a teenager and was injured severely enough to have been sent to a hospital in Amman, Jordan for treatment. JE 24 at 1; JE 25 at 1; JE 26 (SIR summarizing [REDACTED]² interrogation of Latif) at 1; JE 27 at 1; JE 29 at 1; JE 34 ¶¶ 2-3. The damage to his skull was not fully corrected, however, and he continued to have problems with his hearing and other discomfort after returning to Yemen. JE 24 at 1; JE 25 at 1; JE 33 (summary of Latif's ARB proceedings) at 4-5; JE 34 ¶ 4. He could not afford follow-up medical care, so, he says, he sought out assistance from charitable organizations. JE 24 at 1; JE 25 at 1; JE 27 at 1; JE 29 at 1; JE 30 at 6; JE 34 ¶¶ 5-6. As explained, Latif asserts that he met [REDACTED] in this capacity. JE 24 at 1; JE 25 at 1; JE 27 at 1; JE 29 at 1; JE 33 at 2, 5, 7; JE 34 ¶ 7. [REDACTED] told Latif he could arrange free medical care in Pakistan, so in August 2001, Latif decided to make the journey. JE 24 at 1-2; JE 25 at 1; JE 29 at 1; JE 33 at 2; JE 34 ¶¶ 7-8. Latif flew from Yemen to Pakistan and traveled to Kandahar, Afghanistan to find [REDACTED] who was apparently in Kandahar at the time. JE 24 at 1; JE 25 at 2; *but see* JE 34 ¶ 8 (stating that Latif went directly to Kabul to find [REDACTED] Latif explains that he was not able to receive care right away—[REDACTED] was too busy to help him immediately—so he stayed at an Islamic studies center near Kabul while he waited for treatment. JE 25 at 2; JE 48 at 1; JE 29 at 1; JE 30 at 8, 9; JE 33 at 2; JE 34 ¶ 9. In November 2001, after Kabul became the target of bombing, Latif was advised to flee the area. JE 25 at 2; JE 29 at 1. Latif asserts that he

"purpose in going to Afghanistan was to fight jihad" is "not true." JE 34 ¶ 10; *see also id.* ¶ 12 ("I have never received any weapons training, from the Taliban, at any training camp, or anywhere else. I have never participated in military fighting in Afghanistan or anywhere else.").

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stayed in a village, at the home of a man named [REDACTED] for approximately a month and then found an Afghani guide to lead him to the Pakistani border. JE 25 at 2; JE 48 at 2. There is no dispute that Latif was seized near that border in late 2001.

This version of events is corroborated, Latif argues, by various pieces of evidence in the record. First, Latif has submitted to the Court a letter, dated August 21, 1994, from a doctor at the Islamic Hospital in Amman, Jordan confirming that Latif “was admitted” on July 9, 1994 “following a head injury.” JE 32 at 6 (also noting that Latif suffered a “broken skull” and there was “blood concentration and hemorrhage above the left eye, and a hole in the left eardrum”). He has also included in the record before the Court a letter dated August 18, 1999 from Yemen’s Ministry of Public Health indicating that “[w]e recommend that [Latif] return to the previous center outside for more tests and therapeutic and surgical procedures at his own expense.” *Id.* at 10 (explaining that Latif “is hard of hearing” and “a wide circular hold was detected in his left eardrum”). Furthermore, there are indications in the record that when Latif was seized traveling from Afghanistan to Pakistan, he was in possession of medical records. JE 46 at 1 (noting that Latif was seized in a “[b]order [t]own in [Pakistan]” with “medical papers”); JE 66 (unidentified government document compiling information about Latif) at 2 (stating that “[Latif] had medical papers but no passport or weapon” when he “surrendered himself to [Pakistani] authorities”).¹²

¹² Respondents argue that these indications are evidence only that Latif said he had medical records with him at the time he was seized rather than that he in fact had them. They point to evidence in the record that Latif was in possession of money when captured, *see* JE 53 at 1 (document recording chain of custody of Pakistani currency), to demonstrate that Latif possessed only money when he was transferred to U.S. custody. But that evidence does not exclude the possibility that Latif had other items at the time he was seized. Because respondents do not present evidence that counters the notations in government documents that Latif held medical records when taken into Pakistani custody, the Court does not credit their argument.

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~~SECRET~~**ii. Respondents' counterarguments**

Respondents counter that Latif has told interrogators inconsistent stories, which they assert demonstrates that Latif is lying to cover up his true activities. They highlight two documents to support this contention. First, they point to the intake form completed when Latif came into United States custody, which reports that Latif "went to [Pakistan] for treatment of an ear problem," and that Latif "was in Kabul," where he "claims he went just to look around about 4-5 months ago" and where he "stayed [for] 3-4 months." JE 46 at 2. Respondents argue that the note about "look[ing] around" is an indication that Latif essentially said he was a tourist in Kabul, which is distinct from the idea that he stayed at the Islamic studies center. They also note that the form contains no reference to Ibrahim or a car accident. Next, respondents point to a document labeled "Knowledgability Brief," which indicates that Latif "travelled [sic] to Afghanistan to help Ibrahim ((Aliwee)) improve the Islamic studies center in Kabul." JE 23 at 1. Respondents argue that this story is inconsistent with Latif's contention that he was at the center awaiting treatment and note that it does not mention a car accident or injuries.

Respondents also point to smaller inconsistencies in Latif's retelling of his story. In particular, in ² [REDACTED], Latif reportedly told an interrogator that he followed written instructions to meet Ibrahim in Kandahar and traveled to Kabul only after staying with Ibrahim there. JE 25 at 2-3. But in ² [REDACTED], Latif reportedly told an interrogator that he traveled directly to Kabul to find Ibrahim, JE 29 at 1, and in his 2009 declaration, Latif stated that he believed he would meet Ibrahim in Pakistan but went on to Kabul to find Ibrahim there, JE 34 ¶ 8. In addition, respondents note that Latif has said that he stayed at the hospital in Jordan for three months after his car accident, JE 24 at 1; JE 34 ¶ 3, but the evidence in the record

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demonstrates that he was only there for five days, JE 32 at 6.

Finally, respondents assert that some of Latif's allegations are unlikely to be true. They argue that records from his arrival at Guantanamo Bay undercut his assertions of being disabled by indicating that Latif had "no significant medical illness or injuries while detained at Kandahar detention facility" and "denie[d] significant medical [history]." JE 54 at 1, 3. Furthermore, they submit a declaration from a physician who concluded that Latif was physically able to be a fighter. JE 55 (Decl. of Col. Greogy M. Winn, M.D. (May 25, 2010)) ¶ 12.¹³ Respondents also argue that had Latif been at an Islamic studies center near Kabul, he would not have stayed there until November 2001, JE 34 ¶ 8-9, by which date civilians have been fleeing for months, *see* JE 91 (LARA HAYES & BORGINA BRUNNER, "TIMELINE: THE TALIBAN") at 1 (indicating that "Afghans begin fleeing Kabul" in mid-September 2001)). Instead, respondents assert, leaving the Kabul area at the time the Taliban abandoned that city, *see id.* at 3 (noting that the Taliban had left Kabul by November 13, 2001), suggests that Latif was with Taliban forces.

C. The Court's Findings and Conclusions

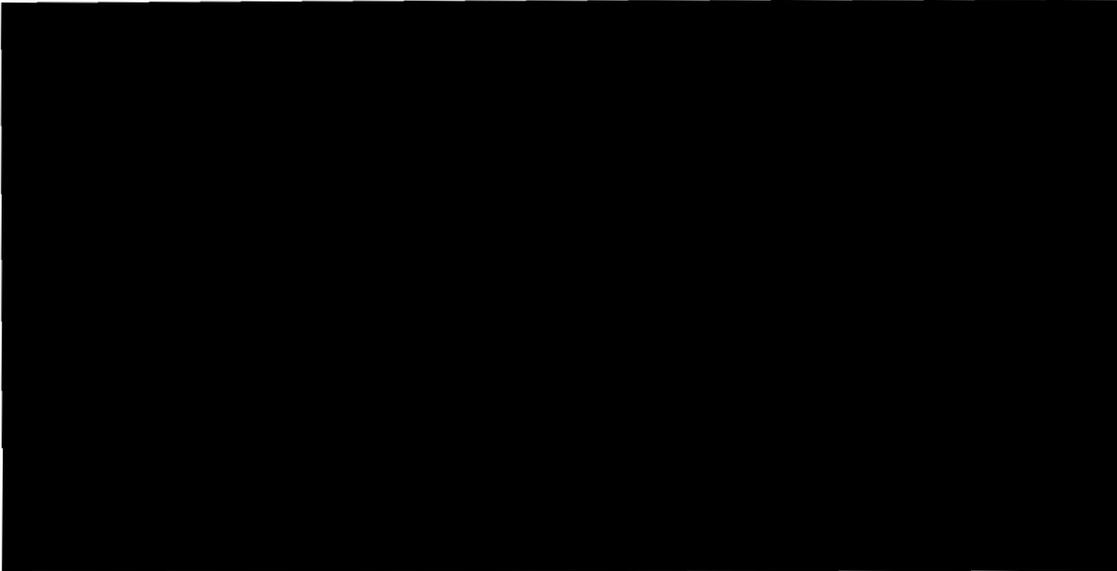
The evidence upon which respondents primarily rely ██████████ is not sufficiently reliable to support a finding by a preponderance of the evidence that Latif was recruited by an Al Qaeda member or trained and fought with the Taliban. The document

¹³ Latif has submitted a declaration from another physician who noted that because "medical screening for transfer by air or inprocessing is expedient and time sensitive," such screening "often do[es] not identify clinical problems that later become apparent." PE 6 (Decl. of Stephen N. Xenakis, M.D. (June 6, 2010)) ¶ 15. This physician looked at Latif's medical records and found that the evidence of a "linear skull fracture" and lingering "symptoms of headaches, impairments in memory and concentration, and losses in hearing and vision" would disqualify Latif from United States military service. *Id.* ¶ 19.

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contains information that, [REDACTED] would support a conclusion that Latif's detention is lawful, and the Court does not take its contents lightly. But the Court cannot credit that information because there is serious question as to whether [REDACTED] accurately reflects [REDACTED], the incriminating facts [REDACTED] are not corroborated, and Latif has presented a plausible alternative story to explain his travel.



In addition, it is significant that, as Latif emphasizes, there is no corroborating evidence for any of the incriminating statements [REDACTED]



although the Court does not disregard [REDACTED] it will not find it more likely than not

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that respondents' allegations that Latif trained and fought with the Taliban are true.

The Court makes this ruling having taken into consideration the explanation of events Latif has offered. Latif's story is not without inconsistencies and unanswered questions, but it is supported by corroborating evidence provided by medical professionals and it is not incredible. The Court does not accept respondents' contention that Latif must be lying because he has told more than one cover story. That theory is based on two isolated statements. The first, an indication that Latif said he went to Kabul to "look around," JE 46 at 2, does not contradict Latif's version of events, in which he went to Kabul to wait for treatment. Furthermore, the document's reference to an ear problem, suggestion that Latif arrived in Kabul approximately five months earlier, and indication that he was elsewhere for the month preceding capture are all consistent with his story. The second statement on which respondents rely, an indication that Latif said he was helping at the Islamic studies center, may be the result of a misunderstanding or mistranslation. Given the opportunity at his ARB proceeding to respond to the contention that he was helping Ibrahim at the Islamic studies center, as suggested in the Knowledgeability Brief, JE 23 at 1, Latif stated that the truth was just the opposite. JE 33 at 7 (reporting that in response to a statement that "[i]t says in the Unclassified Summary that you traveled to Afghanistan to help Ibrahim," Latif said "[h]im to help me, not me helping him").

Respondents' other arguments attacking the credibility of Latif's story are similarly unconvincing. The smaller inconsistencies to which respondents have pointed may be no more than misstatements or mistranslations; even if some details of Latif's story have changed over time, for whatever reason, its fundamentals have remained the same. The timing of his departure from Kabul is not sufficient to create an inference that he was involved in fighting. Whether

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Latif was sufficiently physically impaired as to make it impossible for him to fight is not a crucial question; much more important is that the evidence shows that Latif did have an injury that continued to affect him in 2001 and for which he might therefore have sought treatment. This exculpatory information contributes to the Court's finding that respondents have not proven by a preponderance of the evidence that Latif was in Afghanistan to train and fight with the Taliban.

Because respondents have not demonstrated by a preponderance of the evidence that Latif was part of Al Qaeda or an associated force, the Court concludes that his detention is not lawful under the AUMF. Accordingly, his petition must be granted.

III. CONCLUSION

For the foregoing reasons, Latif's petition for a writ of habeas corpus shall be granted. An appropriate order accompanies this memorandum opinion.


Henry H. Kennedy, Jr.
United States District Judge

July 21, 2010

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI,)	
Petitioner,)	
v.	)	Civil Action No. 04-CV-1254 (HHK)
BARACK H. OBAMA, <i>et al.</i> ,)	
Respondents.)	

Exhibit 46

ISN 156 Intake Form (Dec. 31, 2001)

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JA 567

PERSONAL	MP NUMBER: 2	EVACUATION DATE:
	LNAME: ABD ALG ALBFL	
	FNAME: Henry ABDUL-ALMAD	
	MNAME: ABD-ULLAH	
	SEX: M/F	
	SVCNO NO:	
	DOB: 70 yrs	
	POB: Al Medina Yacine	
	NATIONALITY: Yemen	
	LANGUAGES: Arabic	
MARITAL STATUS: S M (D) W		
STATUS: MIL /CIV/ PARAMIL/ INSURG/ OTHER:		
ADMIN	SCREENER: 3	SCREENING DTG: 2
	APPROACHES: SNIPER	
MILITARY	BRANCH: AR AF NV MC CG	
	RANK:	
	UNIT: New Served	
	DTY P&N:	
	JOB:	
	SKILLS:	
	EXPERIENCE: Kolaha: KP	
CAPTURE	DTG: PLACE: 1	CAP UNIT: DOCUMENTS: medical papers
	CIRCUMSTANCES: Caught because of an Arab	WPNEQUIP: None

JA 568

MP NUMBER: 2

OCCUPATION: Student

ORGANIZATION: Madrasa Al Shah - High school in Yemen

CIVILIAN

OUTER: Students

SKILLS:

PHYSICAL CONDITION: Good (circled)

EDUCATION: High school

ASSESSMENT

INTELLIGENCE: AVG (circled) / AVG (circled) / AVG (circled)

MENTAL STATE:

COOPERATION: 2 3 KNOWLEDGE: A (circled) B (circled) C (circled)

FBI INDICTED PERSONS LIST: Y N

CENTCOM BLACK LIST OR MOST WANTED LIST	FOREIGN FIGHTERS OTHER THAN PAKISTANI MEETING CRITERIA		LEADERS OF IS OR ISOP TALIBAN/ALSHARBIEN		ANYONE WITH SPECIAL SKILLS OR EDUCATION		SPEAKS A WESTERN LANGUAGE	
	YES	NO	YES	NO	YES	NO	YES	NO

Went to PK for treatment of ear problem

Wife in Kabul claim to want to look around but 4-5 months stayed in 2-4 months

Abdul Fatah national code as they come in to AF (at airport)

Claims no affiliation w/ Al Qaeda

PIR / IR

JA 569

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 70

Declaration of Karin C. Ryding, PhD,
Concerning Arabic Interpretation Issues, (June 11, 2009)

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JA 675

**DECLARATION OF KARIN C. RYDING, PH.D.,
CONCERNING ARABIC INTERPRETATION ISSUES**

I, Karin C. Ryding, depose and say as follows:

1. I am Professor Emerita of Arabic linguistics in the Department of Arabic and Islamic Studies at Georgetown University. I hold a B.A. degree from Middlebury College, an M.A. from The American University of Beirut, and a Ph.D. from Georgetown University in Arabic and Linguistics. Between 1980 and 1986, I was head of Arabic training at the State Department's Foreign Service Institute. From 1995 to 1998, I served as Dean of Interdisciplinary Programs at Georgetown University. From 1991-1995, 1998-2000 and from 2002-2004, I was chair of the Department of Arabic and Islamic Studies at Georgetown and, from 1995 to 2008, held the Sultan Qaboos bin Said Professorship of Arabic. During the years 1996-2002 I was a member of the Georgetown University Board of Governors. From 2007-2008, I served a two-year term as president of the American Association of Teachers of Arabic (AATA). Between 2005 and 2007, I was the principal investigator and project adviser to the Arabic Language Flagship Project at Georgetown, a full-year, intensive Arabic program to bring students from the intermediate to advanced or superior level of proficiency. I currently serve on the Board of Directors of Georgetown University Press and on the Executive Council of the Modern Language Association. In addition, I am a member of the national advisory board of the National Middle East Language Resource Center (NMELRC), the Arabic language advisory board of AMIDEAST Education Abroad Programs, the advisory committee for the Concordia Arabic Language Village (Al-Wâha), and the National Capital Language Resource Center (NCLRC). Among my principal publications are *A Reference Grammar of Modern Standard Arabic* (Cambridge University Press, 2005), *Formal Spoken Arabic: Basic Course* (Georgetown University Press, 1990, second edition, 2005), and *Formal Spoken Arabic: FAST Course* (Georgetown University Press, 1993, reprint, 2004). Other publications are listed in the *curriculum vitae* attached hereto.
2. I have been asked to provide information and opinions concerning the skills and other qualifications that are necessary for reliable interpreting, and the relative ease or difficulty of providing consecutive interpretation services between speakers of English and Arabic.
3. In professional circles, the word "translation" is commonly used to refer to the process of converting a document from one language to another, while the term "interpretation" refers to the process of converting spoken language into another spoken language. Persons skilled in the latter process are usually referred to as "interpreters."
4. "Consecutive interpretation" refers to the process in which an interpreter listens to an utterance made by a speaker of one language, converts that utterance into a language spoken or understood by another party to the exchange, listens to the response of the latter, and then converts the response into the language of the original speaker. In consecutive interpretation, the interpreter waits until each utterance is complete before

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beginning to interpret, while in simultaneous interpretation, the interpreter often begins to interpret while a person is still speaking.

5. Both translation and interpretation are extremely challenging tasks, fraught with the risk of inaccuracy. Of the two, interpretation may be said to be the more challenging due to the time pressure involved: unlike translators, who can devote considerable time to the written text being translated and work with dictionaries, grammars, and other written resources, interpreters make their linguistic decisions virtually instantaneously and often instinctively.

6. It is widely accepted that, for interpretation to be reliable, an interpreter must be fully fluent in the languages spoken by both participants in the dialogue. If this is not the case, there is a high risk of inaccuracy in interpretation. But even fluency is not enough. The interpreter must, among other things, understand the cultural and linguistic frames of reference of both parties, including colloquialisms, be a good and careful listener, have an excellent memory and attention span, and be scrupulous about ensuring accuracy.

7. A recent study conducted for the California court system described the knowledge, skills and abilities (KSAs) that are deemed "essential for the performance of court interpretation," including interpretation of witness testimony.¹

Linguistic Skills

Native-like proficiency in all working languages;
 Ability to think and react communicatively in all working languages;
 Knowledge and use of a broad range of vocabulary, including legal terminology, subject-specific terminology, and slang; and
 Knowledge and use of cultural nuances, regional variations, idiomatic expressions, and colloquialisms in all working languages.

Speaking Skills

Ability to speak with proper pronunciation, diction, and intonation in all working languages;
 Ability to speak with a neutralized accent in all working languages;
 and
 Ability to project and/or speak softly.

Listening Comprehension Skills

Ability to listen to and comprehend different rates of speech in all working languages;
 Ability to listen to and comprehend various regional accents and/or dialectal differences in all working languages; and
 Ability to ignore auditory distractions and focus on source speaker.

¹ See Judicial Council of California, *Study of California's Court Interpreter Certification and Registration Testing* (November 2007) at 2-3, available at <http://www.courtinfo.ca.gov/reference/documents/altafinalreport.pdf>.

Reading Comprehension Skills

[omitted here]

Interpreting Skills

Ability to concentrate and focus;
 Ability to process linguistic information quickly;
 Ability to make quick linguistic decisions regarding word choice or terminology selection;
 Ability to apply short-term memory skills in retaining small units of information;
 Ability to think analytically;
 Ability to utilize predictive thinking skills to anticipate incoming messages;
 Ability to convey meaning;
 Ability to provide transference from one language to another;
 Ability to preserve accuracy;
 Ability to select appropriate equivalents for vocabulary or phrases;
 Ability to accommodate for lack of equivalents in vocabulary or phrases;
 Ability to conserve intent, tone, style, and utterances of all messages;
 Ability to reflect register; and
 Ability to self-monitor and self-correct.

Behavioral Skills

Ability to practice and follow ethical standards;
 Ability to conduct business in a professional manner;
 Knowledge and awareness of cultural aspects that affect language;
 Ability to work in various settings, situations, or conditions;
 Ability to project self-confidence and self-awareness when interpreting; and
 Knowledge and continued learning of social, technological, and legal changes that affect language.²

The scope and length of the above list underscores the difficulty of ensuring, in any context, that interpretation is accurate and reliable.

8. Interpretation between spoken Arabic and spoken English is particularly challenging and much more difficult than, say, interpretation between French and English, or German and English. The situation of Arabic is relatively more complex because spoken Arabic is not a single language, but rather a family of dialects, a number of which are not mutually intelligible or fully so.

² ibid.

9. It is important to understand, first, that there are very substantial differences between the many various forms of colloquial (spoken) Arabic, used in the 22 countries in the Middle East and Africa where Arabic is the principal language, and the language known as Modern Standard Arabic (MSA).

10. MSA is a modernized version of classical Arabic, which is the language of the Koran and medieval literary and religious texts. "The standardization of Arabic, which began in the 8th and 9th centuries AD, produced a set of norms that the early Arab grammarians called *fusha*."³

MSA is used most widely in written form. It is also used in spoken form in scripted formal situations, such as international meetings and conferences, by the intelligentsia, in official speeches, on television news broadcasts, in religious contexts, etc. However, very few Arabs, including educated Arabs, employ MSA for purposes of daily speech. Its use in an oral context therefore requires a conscious intellectual effort.

11. Arab children grow up speaking a dialect. They may or may not become literate in MSA, depending on education level and native linguistic ability. "While *all* children painlessly and inevitably learn their local vernacular or colloquial dialect of Arabic, only those who have access to the benefits of formal schooling may learn *fusha* (MSA)... *Fusha* is nobody's mother tongue and is rarely or almost never used at home in the Arab world. It is only learned through schooling and used exclusively at outside official or formal functions. The native dialect or vernacular variety of Arabic is typically acquired as a mother tongue and continues to be used almost exclusively in speech throughout adulthood and life."⁴

12. This situation, where a written or formal language differs markedly from the spoken language, is known technically as diglossia. The diglossic situation in the Arabic countries differs from country to country depending on the degree of difference that exists between MSA and the particular linguistic features of the specific Arabic dialect with which it is in contact.⁵ "Diglossia implies sufficiently similar languages for the speakers to feel that it is the same language, yet remote enough, so that the acquisition of the literary language implies long-term efforts and can never be fully achieved."⁶

³ Maamouri, Mohamed, "Language Education and Human Development - Arabic diglossia and its impact on the quality of education in the Arab region," Discussion paper prepared for The World Bank, The Mediterranean Development Forum Marrakech, 3-6 September 1998, p. 33.

⁴ *Ibid.*, p. 34.

⁵ Cadora, F.J. Interdialectal Lexical Compatibility in Arabic: An Analytical Study of the Lexical Relationships Among the Major Syro-Lebanese Varieties (1979) in *Journal of Semitic Studies* 28: 1.204-07, ed. G.F. Pijper, XI, Leiden, E.G. Brill, 1979, p. 34.

⁶ Maamouri, *op. cit.*, p. 32, citing Angheliescu, Nadia. 1974. Arabic diglossia and its methodological implications. Pp. 81-92, in Angheliescu, M. Ed. *Romano-Arabica*. Bucharest: Romanian Association for Oriental Studies.

13. MSA is sufficiently different from spoken dialects of Arabic that the difficulty of acquiring proficiency in MSA is comparable to the difficulty of acquiring any second language. Thus, communication in MSA between two Arabs from different dialectal backgrounds may be analogized to communication between native speakers of two European languages in a third European language that neither speaks on a daily basis (e.g., a Swede and a Dutchman resorting to English in order to communicate with each other). The effectiveness and accuracy of communication would depend on the two speakers' relative proficiency in MSA. Even if one speaker is highly proficient, the other may not fully understand what is being said, and the MSA speaker may not fully understand what the non-proficient speaker is trying to say in response, especially if the other is not using, or is not fully fluent in MSA.

14. While Arabs whose spoken dialects differ considerably from each other in terms of mutual intelligibility⁷ can attempt to communicate orally using MSA, doing so is not a natural or comfortable means of expression for most people. Indeed, for that reason, it is not uncommon for educated individuals from different parts of the Arab world to communicate with each other in a language other than Arabic, such as English.

15. Proficiency in MSA is related to educational level, although education alone does not guarantee proficiency in MSA. The adult illiteracy rate (15 years and older) in most of the Arab countries in 2005 was 36 percent according to data of the United Nations Economic and Social Commission for Western Asia (ESCWA),⁸ including 19.6⁹ percent in Saudi Arabia, 47 percent in Yemen, 40.8 percent in Egypt, and 58.9 percent in Iraq. The overall illiteracy rate in the Arab and North African countries in 2000 was 39.9 percent.¹⁰

16. The relatively low level of education prevalent in the Arab world further reduces the likelihood that MSA would have served as a reliable language of communication between native Arabic-speaking interpreters and Arabic-speaking detainees due to lack of proficiency in spoken MSA on the part of both interpreters and detainees. Illiteracy rates are among the highest in Iraq and Egypt, countries that would have been most likely to have served as a source of native speaking interpreters given their relatively larger populations (about 76 million and 25 million respectively) coupled with their current

⁷ Mutual intelligibility between Arabic dialects is discussed below.

⁸ <http://css.escwa.org.lb/Abstract/chap02/swf/2-1-ESCWA.swf>. The rates are approximately corroborated by United Nations Human Development Report for 2007/2008 at <http://hdrstats.undp.org/indicators/3.html>.

⁹ Total illiteracy in Saudi Arabia has also been reported at 38% (50% men) in the online version of Gordon, Raymond G., Jr. (ed.), 2005. *Ethnologue: Languages of the World*, Fifteenth edition. Dallas, Tex.: SIL International at http://www.ethnologue.com/show_country.asp?name=SA.

¹⁰ Unesco Institute for Statistics, Regional Adult Literacy Rate and Population by Gender, July year 2002 assessment, 2000 Illiteracy rates - Arab States and North Africa, <http://www.uis.unesco.org/en/stats/statistics/literacy2000.htm>; ESCWA's illiteracy figure for 2000 is 40 percent in the countries examined.

political and military ties with the United States. It should be noted that most of the Arabic-speaking detainees at Guantánamo are from Saudi Arabia and Yemen,¹¹ where illiteracy in 2000 was 23.8 percent and 53.6 percent respectively according to the ESCWA data cited above. Moreover, the younger an individual was when first detained, the less likely that he had gained proficiency in MSA.¹²

17. For the reasons discussed above, it should not be assumed that native Arabic-speaking interpreters employed by the military were orally fluent in MSA, even if they attempted to use that language to communicate with a detainee. Nor can one assume MSA proficiency in the case of so-called "heritage speakers" who may have been asked to interpret using MSA. Students of Arab descent in Dearborn Michigan's school system, where they comprise 40 percent of the system's 17,700 students, provide a case in point: many are fluent in some form of colloquial Arabic, but can barely read or write MSA.¹³

18. I am informed by counsel that some detainee interrogations were conducted in Arabic by American military personnel without the use of an interpreter. Americans who learned Arabic at university or the Defense Language Institute are usually taught MSA.¹⁴ Arabic in any form is a very difficult language for native English speakers to learn, and relatively few people acquire genuine proficiency even in MSA, much less in a spoken Arabic dialect.¹⁵ Unless a native English speaker who conducted an interrogation in

¹¹ Swivel Preview Internet site at <http://www.swivel.com/graphs/show/22558897>. The tables on the site indicate that 138 Guantánamo detainees are from Saudi Arabia, 110 are from Yemen, 25 are from Algeria, 15 are from Morocco, 13 are from Libya, and 12 are from Kuwait. CNN reported on March 13, 2009 that the U.S. Government currently holds about 240 prisoners, including 100 Yemenis. (<http://edition.cnn.com/2009/WORLD/meast/03/13/guantanamo.saudis.yemen/index.html>).

¹² *Independent of Sunday*, 28 May 2006, "The children of Guantanamo Bay"; The 'IoS' reveals today that more than 60 of the detainees of the US camp were under 18 at the time of their capture, some as young as 14, By Severin Carrell, <http://www.independent.co.uk/news/world/americas/the-children-of-guantanamo-bay-480059.html>.

¹³ Abstract of "'Heritage Speakers': Loss of a Treasure?" By Zehr, Mary Ann, *Education Week*, v25, n30, p1, 20-22, 24 Apr 2006. Published by Editorial Projects in Education, Inc. Bethesda Maryland. See abstract at Educational Resources Information Center at http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_ERICExtSearch_SearchValue_0=EJ737178&ERICExtSearch_SearchType_0=no&accno=EJ737178.

¹⁴ See <http://itre.cis.upenn.edu/~myl/languagelog/archives/001205.html> and Lagouranis, Tony and Mikaelian, Allen, *Fear up harsh: an Army interrogator's dark journey through Iraq*, New American Library, 2007, p. 24 (Lagouranis, speaking about his experience at the Defense Language Institute, says, "...[W]e studied Modern Standard Arabic, which is perhaps the most universal version of Arabic, but no one really speaks it on the street.")

¹⁵ "The teaching of Spoken Arabic still remains the exception rather than the rule in institutions of higher education. Most students learn only the formal variety of Arabic, which 'creates a fake model of oral proficiency by presenting the students with an artificial variety that is not used by the native speakers since no one uses [formal Arabic] for daily-life situations.'" (Palmer, Jeremy, "Arabic Diglossia: Teaching Only

Arabic was trained in and had meaningful experience in interpreting, and could readily comprehend the dialect spoken by the detainee, it cannot be presumed that his or her account of the interrogation is fully accurate and reliable.

19. The Defense Language Institute classifies Arabic as an extremely challenging, Category IV language.¹⁶ But DLI training does not ensure interpreter-level proficiency. Language skills are typically evaluated by U.S. government agencies in accordance with the Interagency Language Roundtable (ILR) guidelines, which separately evaluate reading, listening, and speaking skills on a scale from 1 to 5, with Level 5 representing proficiency equivalent to an educated native speaker.¹⁷ A 2008 Congressional report indicates that, prior to 2005, military linguists were expected to achieve only Level 2 skills ("limited working proficiency") in reading and listening, but not speaking.¹⁸

20. Everyday affairs in the Arab world are almost invariably conducted in a local colloquial dialect. The various dialects differ fundamentally from MSA and, in a significant number of cases, from each other, sometimes to the point of mutual unintelligibility, particularly between North African vernaculars and Middle Eastern (eastern) vernaculars, as discussed below.

21. The main dialect groups are: Egyptian Arabic, considered the most widely understood; Maghreb Arabic (Tunisian, Algerian, Moroccan, and western Libyan); Hassaniyah (in Mauritania); Maltese (considered by some to be a separate language); Sudanese Arabic (with a dialect continuum into Chad); Levantine Arabic (Syrian, Lebanese, Palestinian, and western Jordanian); Iraqi Arabic; Gulf Arabic (Gulf coast from Kuwait to Oman, and parts of Iran) Hijazi Arabic; Najdi Arabic; and Yemeni

the Standard is a Disservice to Students," *Arizona Working Papers in SLA & Teaching*, 14, 111-122 (2007) 111, University of Arizona, p. 113, <http://w3.coh.arizona.edu/awp/AWP14/AWP14%5BPalmer%5D.pdf>, p. 111, citing M. Al-Batal (Ed.), *The teaching of Arabic as a foreign language: Issues and directions* (pp. 115-133). Provo, Utah: American Association of Teachers of Arabic, p. 123). "While the educational establishment has for decades enforced the concept of MSA first and foremost, this is completely the reverse of the native speaker's experience with Arabic as a mother tongue" (Ryding, K. C. (1995), "Discourse competence in TAFL: Skill levels and choice of language variety in the Arabic classroom," in M. Al-Batal (Ed.), op. cit, p. 226.

¹⁶ <http://usmilitary.about.com/od/educationtraining/a/arabiclanguage.htm>. The Defense Language Institute increased the length of its Arabic course from 48 to 63 weeks after 1990 (Davis, Richard Harding, DoD Training: Many DoD Linguists Do Not Meet Minimum Proficiency Standards, Report to the Chairman, Committee on Appropriations, U.S. Senate, 1994, p. 5. Published by DIANE Publishing, 2008. This document may be found at http://www.dtra.mil/documents/offices/OS/OSP/Portal/Materials/GAO_NSLAD_94_191.pdf)

¹⁷ "Building Language Skills and Cultural Competencies in the Military," U.S. House of Representatives Armed Services Committee, Subcommittee on Oversight & Investigations, November 2008, at 22. This report can be found at <http://armedservices.house.gov/pdfs/Reports/LanguageCultureReportNov08.pdf>. A specific description of the ILR scale is found at <http://www.govilr.org>.

¹⁸ "Building Language Skills and Cultural Competencies in the Military," cited in the previous footnote, at 22.

Arabic.¹⁹ Each of these dialect groups includes numerous dialects that may vary along geographic, urban/rural, religious, or occupational lines. *Ethnologue*, an encyclopedic survey of the world's languages, identifies at least 35 distinct Arabic dialects, and there are many other regional variations.

22. There are widely varying degrees of mutual intelligibility among these dialects. Factors affecting intelligibility include differences in vocabulary (words in one dialect often mean something completely different in other dialects), syntax and grammar, and pronunciation. These differences reflect the disparate historical evolution of the language in a particular region. Arabic was not originally spoken in many parts of what is now loosely described as "the Arab world." As local populations began to adopt Arabic, whether due to conquest or trade, the previously-spoken languages (referred to as "substrate" languages), continued to have a strong influence on the locally-spoken idiom, producing much of the variation we see today.

23. Although much has been said anecdotally about the lack of intelligibility between certain Arabic dialects, few comprehensive comparative studies have been done. In his 1979 work, Cadora examines interdialectal lexical (vocabulary) compatibility in Arabic, focusing on the Syro-Lebanese varieties of spoken Arabic. Cadora also measures the lexical compatibility that Lebanese varieties share with the dialects of Cairo, Baghdad, Jeddah, and Casablanca, finding the following percentages of compatibility respectively: 86, 85, 80, and 68.²⁰ Thus, even among highly urban varieties of eastern spoken Arabic, which should exhibit the highest degree of mutual intelligibility or shared features, there is a possibility that 14-20 percent of the vocabulary items compared in Cadora's study might not be understood in communication between speakers of the different dialects examined.

24. Vocabulary differences, of course, are only one factor in mutual intelligibility. Differences in grammar or syntax, differences in vernacular expressions and usage, and differences in pronunciation also significantly affect the intelligibility of speech.

25. Even within a particular regional dialect group, many sub-dialects are sufficiently different to limit their mutual intelligibility with other sub-dialects. And while some dialects are mutually intelligible to some degree, the presence of any dialectal difference is likely to affect the accuracy and reliability of interpretation. For that reason, it cannot be presumed that a native speaker of one dialect interpreting for a native speaker of another dialect would be able to perform reliable interpretation. Interrogations conducted by a non-native speaker of Arabic in colloquial Arabic would be even more problematic, especially given the lack of opportunity to learn an Arabic dialect in a formal classroom setting.

¹⁹ <http://www.arabic-language.org/arabic/dialects.asp>.

²⁰ Cadora, op. cit., pp. 29-32.

26. Two of the most striking "tiles" in the dialect mosaic can be seen in Saudi Arabia and in Yemen, the countries of origin of the great majority of Arabic-speaking detainees at Guantánamo. According to one classification,²¹ Saudi Arabia has three main dialect groups: Gulf or eastern (200,000 speakers), Hijazi dialect (6 million speakers), Najdi (8 million speakers). Other, more detailed classifications reflect even greater complexity.²² Among these dialects, the Arabic of the Najd region is one of the most conservative of the dialects in the Arabian peninsula. According to Arabic linguist professor Peter 'Abboud, "The Najd of Saudi Arabia has a number of dialects which show unique features not known to exist in other dialect areas."²³ Another dialectologist, Bruce Ingham, writing later, noted that 'Abboud's work on Najd, and that of other Arabic dialectologists on the dialects of the Arabian peninsula, have largely stood the test of time."²⁴

27. A "List of Individuals Detained by the Department of Defense at Guantanamo Bay, Cuba from January 2002 through May 15, 2006" indicates that of the 133 Saudis detained during this period, up to approximately 49 were born in the Najdi dialect region (this number can only be approximate due to apparent transliteration errors in the list, which spells the same place name differently in a number of cases).²⁵ The significant percentage of detainees from this dialect region, and the possibility of communication problems between speakers of the Najdi dialects (which exhibit linguistic features not found in the other Arabic dialects), suffice to establish reasonable doubt as to whether a Najdi speaker could communicate effectively with a native Arabic-speaker speaking a non-Najdi dialect.

28. The Arabic dialect situation in Yemen, the country of origin of a significant number of detainees, poses particular problems, because the geographical fragmentation

²¹ Languages of Saudi Arabia, http://www.ethnologue.com/show_country.asp?name=SA.

²² See Kees Versteegh, *From The Arabic Language*, 1997, National Institute for Technology and Liberal Education Arab World Project (NITLE), Arab Cultural and Civilization, a collaborative web project from NITLE, Dialects of Arabic. http://nitte.teachmideast.org/texts.php?module_id=1&reading_id=113.

²³ Abboud, Peter, F., "Verb Suffixation in Najdi Arabic," *International Congress of Orientalists, Proceedings of the 29th Congress, 1973, Section 4*, pp. 1.

²⁴ Ingham, Bruce, *Arabian Diversions: Studies on the Dialects of Arabia*, Published by Gamet & Ithaca Press, 1997, p. xii.

²⁵ The list consulted is at http://www.washingtonpost.com/wp-srv/nation/documents/gitmo_detainees_051506.pdf. The place-of-birth names identified as being located in the Najdi dialect area, and the number of detainees from those places, are: Riyadh (25), Shaqarah (2), Arar (2), Sakaka (4), Tabuk (4), Qasim (3), Buraydah (2), Toraif (1), Kharj (4), Qarara (read Qara) (1), Qaisuma (1), and Jauf (1). These figures may be regarded as tentative due to the transliteration issues mentioned above, but they suffice to indicate the possibility that a significant portion of the detainees may have spoken a dialect with linguistic features not familiar to speakers of the more commonly spoken Arabic dialects.

of the area has produced a great deal of dialect variation.²⁶ One commentator notes that “the extreme diversity of Yemeni dialects prevents, in many instances, mutual understanding. For example, it is not possible for other Yemeni speakers, even the closest neighbors, to understand uneducated Tihami, Sa’di or Yafi’i speakers, nor are the three dialects mutually understandable.”²⁷ Given that communication among Yemenis themselves is problematic, there is an even stronger likelihood of incomprehension between a Yemeni and a native of some other country.

29. The last few pages of this report have focused on difficulties in oral communication between individuals who do not speak the same dialect of colloquial Arabic and who are not both fully fluent in the oral use of MSA. Accurate and reliable interpretation between English and Arabic also requires that the interpreter be fully fluent in English. Such proficiency is, of course, critical to the interpreter’s clear understanding of what is being said or asked by an interrogator and to his or her ability to render a detainee’s response into accurate, intelligible English. While it may be presumed that native English speakers are reasonably proficient in their own language, that presumption cannot be made in the case of an interpreter whose primary language is Arabic and who speaks English as a second language. To the extent native or native-level Arabic speakers were used as interpreters, one may reasonably ask whether an effort was made to ensure that their level of fluency in English met professional interpreter standards. In this connection, it should be noted that a recent United Nations report states that “facility with the English language is waning across the Arab world. With the exception of a few university professors and educated individuals, real proficiency in English has ebbed...”²⁸

30. As suggested by the list of KSAs referred to above in paragraph 7, factors other than linguistic competence may affect the reliability of interpretation. In other words: miscommunication in the context of interpreted interrogation is not confined to linguistic error or linguistic misunderstanding. As everyone knows from personal experience, miscommunication is quite common in non-stressful, everyday interaction between two native speakers of the same language. It may stem from inattention or mishearing, lack of clarity on the part of one party, or simple miscomprehension on the part of the other. The need for interpretation adds significantly to the risk of miscommunication, which could occur at one or more of six stages in the process:

²⁶ http://nitle.teachmideast.org/texts.php?module_id=1&reading_id=113.

²⁷ (Vanhove, M., *Arabic of Yemen*, Lemma 3, 14, Country Profiles, <http://llacan.vjf.cnrs.fr/fichiers/Vanhove/EALL.pdf>, p. 6 (to appear in Versteegh, K. and K. ndgen, O. (eds.), *Encyclopedia of Arabic Language and Linguistics (EALL)*, Leiden: Brill).

²⁸ *The Arab Human Development Report 2003 (AHDR) - Building a Knowledge Society*, 2003, the United Nations Development Programme, Regional Bureau for Arab States, p. 124. <http://arabstates.undp.org/subpage.php?spid=14>

- (1) The interpreter may mishear or misunderstand (either mistake or not fully understand) what the interrogator says or asks.
- (2) The interpreter may misinterpret or poorly interpret the interrogator's statement or question.
- (3) The detainee may mishear or misunderstand what the interpreter says or asks.
- (4) The interpreter may mishear or misunderstand what the detainee says in response.
- (5) The interpreter may misinterpret or interpret poorly the detainee's response.
- (6) The interrogator may mishear or misunderstand the interpreter's account of the detainee's response.

31. Other factors potentially affecting the reliability of interpretation include fatigue and stress. Interpreting is an inherently stressful and fatiguing process. To the extent interpreters were required to work long hours at a stretch or without adequate rest, the quality and reliability of their work product is very likely to have suffered. Interrogation of a perceived enemy is also inherently stressful, and published accounts of interrogation in Afghanistan and at Guantánamo underscore that fact, especially when the interpreter witnessed stress-producing interrogation tactics. Interpreters are also professionally bound to mimic the tone and body language of the person for whom they are interpreting, another factor likely to create tension and thus to affect the quality and accuracy of the interpretation provided.

32. Based on all of the above factors, it is my opinion that it cannot be presumed that Arabic interpretation in the interrogation of detainees, whether performed by a native speaker of Arabic or an American with some command of MSA, was fully accurate or reliable.

Signed under penalties of perjury, this 11 day of June 2009.



A handwritten signature in black ink, appearing to read "Kari R. O'Neil", is written over a horizontal line.

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Publications:**• Books:**

A Reference Grammar of Modern Standard Arabic. Cambridge: Cambridge University Press. 2005
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"Educated Spoken Arabic: A Flexible Spoken Standard," Northeast Conference on the Teaching of Foreign Languages, April, 2009.

"Arabic Goes Global," plenary address at Critical Languages Conference, Miami University of Ohio, November, 2008.

"Cultural Studies, Postmodernism, and Middle Eastern Languages," presentation at seminar: Towards Understanding Culture in Middle Eastern Language Programs, Georgetown University, April, 2008.

"Arabic and the Ad Hoc Committee Report," Symposium on Fostering Translingual and Transcultural Competencies, Georgetown University, April, 2008.

"Arabic: New Dialogues in Motion" George Washington University panel "Foreign Languages and Higher Education: New Structures for a Changed World," March, 2008.

"MLA Ad-Hoc Committee Report: the Pressing Need for Arabic," Northeast Conference on the Teaching of Foreign Languages, March, 2008.

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"Ad Hoc Arabic: Problems of Unplanned Growth" Modern Language Association Conference, Chicago, December 2007.

Keynote address: "Challenges for Arabic: New Directions and New Paths," Arabic LEARN Conference, August, 2007, Defense Language Institute, Monterey, CA

"The MLA Ad Hoc Committee on Foreign Languages: A Final Report" (with Scott McGinnis), Interagency Language Roundtable Showcase, George Washington University, Washington, DC, June, 2007.

"Postmodern Models for Arabic: Answering Old Questions in New Ways," MLA Conference, December, 2006. Session: "The scramble for languages: What have we learned about readiness?"

"Full-time, Intensive Arabic: A Role for a Fifth Year," (with Elizabeth Bergman), AATA Panel, Boston, November 2006.

"Challenges for Arabic Linguistics: Reframing Goals and Issues," invited lecture presented at University of Utah Middle East Center, October, 2006.

"Georgetown Arabic Flagship," (with Elizabeth Bergman) at 4th Annual Symposium on Teaching and Learning Languages to Native-Like Proficiency, Coalition of Distinguished Language Centers, Washington, DC, October, 2006.

"Arabic Curriculum Development: Re-Visioning a Framework," invited lecture for "Towards

- Excellence in Arabic Language Programs" workshop, Georgetown University, September, 2006.
- "Toward a New Balance: Higher Education and Government" presentation for MLA Panel: Language Policy and the Politics of Language, December, 2005.
- "Arabic Flagship: Issues in Curriculum Design" with E. Bergman, at the Third Annual Workshop on Teaching and Learning to Near-Native Levels of Language Proficiency, Coalition of Distinguished Language Centers, October 2005.
- "Advanced language skills in Arabic: Knowledge, competence, sophistication" at panel: "Towards a new model of language, culture, and area education: A Report from the MLA's Committee on Foreign Languages," at the Interagency Language Roundtable, Columbia, MD, July, 2005.
- "Goals of Arabic Teaching; Roles of Arabic Teachers" Teaching Arabic for Communication workshop, May, 2005, Georgetown University
- "Issues in Teaching Advanced Arabic Discourse" May, 2005; FLL Faculty Development Forum, Georgetown University
- Panel to honor Mahmoud al-Batal with ADFL distinguished service award, Modern Language Association conference, Philadelphia, December 2004. Chaired panel and presented award.
- "Educated Arabic Discourse: A Roadmap for Research and Training," invited lecture for the Arabic Media and Public Appearance Forum, University of Maryland, June, 2004
- "Teaching Arabic: New Perspectives on Persistent Problems" Northeast Conference on the Teaching of Foreign Languages, April 2003.
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- "Training Teaching Assistants in Less Commonly Taught Languages: an Arabic Perspective" MLA conference, December 2002.
- "Training TA's in Arabic" at NCOLCTL (National Council of Organizations of Less Commonly Taught Languages) Conference, April, 2002.
- "Alchemy and Phonosymbolism: Science, Sound and Mysticism in the Arab Middle Ages" at MENRC Workshop "Language and Mysticism in the Abrahamic World," Georgetown University, March, 2002.
- "The Role of Critical Languages on Campus" invited presentation at ADFL Seminar East, June, 1999.
- "Interdisciplinarity and Disciplinarity" discussion leader, MLA Conference on the Future of Doctoral Education, April 1999.
- Chair of session "Faculty Evaluation, Peer Review and Post-tenure Revue" at MLA Conference, December 1998.
- Chaired discussion group: "Content-Based Language Teaching" ADFL Summer Seminar East, June 1998.
- "Interdisciplinary Program Administration" at annual conference of the Association for Gerontology in Higher Education, panel on "Interdisciplinary Education and Research Programs in Higher Education: The View from Above," Boston, February 1997.
- "The Campus Interview" Presentation on ADFL Panel for Job-Seekers at MLA Convention, December, 1996.
- "Foreign Language Departments as Leaders"-- ADFL Panel presentation at MLA Convention, December, 1996.
- "Arabic for Proficiency: Myths and Realities" presentation at Summer Seminar for Department Chairs, Association of Departments of Foreign Languages, Ohio State University, June, 1996.
- Chair of panel "Approaches to Arabic Curricula: Text and Talk" at Middle East Studies

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- "Alchemical Phonology: Science, Sound and Mysticism in the Middle Ages" at ICHoLS VI, August 1993.
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- "Myths about Arabic," at the Arabic in the Nineties Conference, Middlebury College, June, 1992. Translation Workshop conducted at Middle East Studies Association Conference, November, 1991.
- "Content-Based Instruction: Theory and Application," Middle East Studies Association, special workshop of the American Association of Teachers of Arabic, San Antonio, November, 1990.
- "Medieval Arabic Morphological Theory," for the North American Association for the History of Linguistic Science, at the Linguistic Society of America (LSA) Conference, Washington, December, 1989.
- "Implementation of Content-Based Instruction: Course Development in Arabic," at the Pew National Workshop on Content-Based Instruction, Monterey Institute of International Studies, Monterey, California, January, 1990.
- "Formal Spoken Arabic: Distinctive Features," Middle East Studies Association, Toronto, Nov., 1989 (I also organized and chaired the panel on Formal Spoken Arabic).
- "Less Commonly Taught Languages: Where We Stand Now," at Georgetown University Round Table on Languages and Linguistics, March 1989.
- "Alchemy and Linguistics: Connections in Early Islam." The Alchemy Conference, University of Groningen, Groningen, Holland, April, 1989.
- "The Rise of Science in Early Islam," Middle East Studies Association, Beverly Hills, California, November, 1988.
- "Alchemical Science and Arabic Language Science in the Early Middle Ages: Interdisciplinary Parallels," presented at the annual conference of the British Society for Middle Eastern Studies (BRISMES), Leeds University, July, 1988.
- "Text Development for Content-Based Instruction in Arabic," with Barbara Stowasser, Northeast Conference, New York, April, 1988.
- Chair of Panel: "Variation in Arabic" Georgetown University Round Table on Languages and Linguistics, March, 1988.
- "The Search for a Paradigm: The Inception of Linguistic Analysis in Medieval Mesopotamia," presented at the annual conference of the Middle East Studies Association, Baltimore, November, 1987.
- Chair of panel, "Current Issues in Arabic Linguistics" at the annual conference of the Middle East Studies Association, Baltimore, November, 1987.
- "The Language Classroom as a Learning Community: Community Language Learning as an Alternative Approach to Language Teaching" at the annual conference of the International Society for Exploring Teaching Alternatives, (ISETA) Fort Collins, Colorado, October, 1987.
- "New Directions in Curriculum Design," at the Arabic Curricular Materials Workshop, Fletcher School of Law and Diplomacy, Tufts University, Medford, Massachusetts, September, 1987.
- "Arabic Training for Foreign Affairs Personnel" presented at the conference of the Association Internationale de Linguistique Appliquée, Brussels, 1984.
- "Language Acquisition: the View from the Ground" presented jointly with Madeline Ehrman at the Georgetown University Round Table on Languages and Linguistics (ILR Pre-session), March, 1984.
- "Accelerated Arabic: the FSI FAST Course" at the Middle East Studies Association/American

- Association of Teachers of Arabic annual meeting. Chicago, November, 1983.
- "The Why, What and How of Classroom-Centered Research in Foreign Language Teaching" presented the annual WATESOL conference. Washington, DC, September, 1983.
- "Goals of Instruction and Proficiency-Based Testing in Arabic" presented at the annual meeting of the American Association of Teachers of Arabic, Philadelphia, November, 1982.
- "The Language Classroom as a Learning Community" at the conference of the Association Internationale de Linguistique Appliquee, Lund, Sweden, August, 1981.
- Chaired panel "Arabic Syntax and Semantics" at the annual conference of the Middle East Studies Association, November, Washington, D.C., 1980.
- "Language Acquisition and Language Learning: Does Recent Research Have Anything to Say to Foreign Language Teachers?" presented as a part of the colloquia series at SUNY Stony Brook, April, 1980.
- "The Community Language Learning Approach to Arabic" presented at the annual meeting of the American Association of Teachers of Arabic, Ann Arbor, 1978.
- "Dative Movement Re-Examined" presented at the annual meeting of the Linguistic Society of America, Chicago, December, 1977.

Workshops conducted, conferences hosted:

- NCLRC Summer Institute Workshop: Teaching Arabic As a Foreign Language, Washington, D.C., May 2003
- Faculty workshop at Princeton University, March 2000: Classroom as Community: Applying Second Language Acquisition Research to the Classroom.
- Co-leader of "New Chair Workshop" ADFL Summer Seminar, 1997.
- Host of Arabic Linguistics Society Symposium at Georgetown, March 1995.
- Workshop in Arabic Dialectology: Workshop presented as Pre-GURT Session, March, 1994.
- Workshop in Arabic English translation, November 1991 - Middle East Studies Association.
- Workshop in Oral Proficiency and Reading Proficiency Testing: Middlebury College Arabic Summer School, 1985;
- Workshops in Counseling Learning/Community Language Learning:
- George Washington University, March, 1989
 - Foreign Service Institute, May, 1985
 - Central Intelligence Agency, May, 1985
 - National Security Agency, April, 1985
 - University of Southern Illinois, Carbondale, April, 1981
 - Virginia State Conference on English as a Second Language/ Bilingual Education, February, 1981
 - WATESOL Conference, University of Maryland, September, 1980

Consulting and evaluation activities:

- Consultant to Middlebury College Arabic language program, Fall, 2008, and ongoing.
- Editorial referee: *Modern Language Journal*, *Foreign Language Annals*, *Language Learning*, *Al-Arabiyya*, *International Journal of Middle East Studies*, *International Journal of Islamic and Arabic Studies*. Cambridge University Press, Georgetown University Press; John Benjamins Publishers, Edinburgh University Press, Yale University Press.
- Consultant and evaluator for Arabic Language Village Project (*Al-Wāha*), Concordia College, Minnesota, 2005-.
- Chair of academic program external review committee for Department of Near Eastern Studies at University of Arizona, February, 2006.
- Evaluator for "Standards for Learning Arabic, K-16" document, NCLRC, May, 2005.
- External evaluator for tenure & promotion dossiers: Hussein Elkhaifi (University of Washington, 2008), Kirk Belnap (BYU, 2005), Aida Bamia (University of Florida, 2000); Keiko Samimy (Ohio State U., Spring 1994); and Mahdi Al-Osh (OSU, Fall, 1994 for promotion and tenure; fall 2007 USMA, West Point, for full professor);

External evaluator for Department of Near Eastern and Judaic Languages and Literatures at Emory University, April, 1991. Chair of team.

External evaluator for Arabic Materials Development Project, Middlebury College, National Endowment for the Humanities, 1990-94;

External evaluator for University of Utah Middle Eastern Language Program, February, 1989;

External evaluator for government Arabic language training programs, 1989-present;

External evaluator, Department of Foreign Languages at Villanova University, 1987

Middlebury College Arabic Summer School Advisory and Review Committee, 1981-87;

Consultant to North Carolina Center for World Languages and Cultures:
Developing a Template for Teaching Foreign Cultures. February 1996.

Board of Advisers, American Global Studies Institute, Monterey, California;

Consultant to SAIC (Science Applications International) for developing an intelligent machine tutor for Arabic;

Consultant for developing Arabic reading proficiency examinations at government agencies, 1989-90;

Consultant to the Center for Applied Linguistics, 1978-79, on Research Proposal 7748 (NDEA):
Principles of Second Language Instruction: Training Modules for Foreign Language Students and Teachers." This was a survey and compilation of recent research in the psychological and neurological bases of second language learning.

Grants, awards, honors:

Elected president of American Association of Teachers of Arabic (AATA), 2007-08.

Awarded 3-year Arabic Flagship Program grant, \$1,500,000 from National Foreign Language Initiative (NFLI), National Security Education Program, 2005-07.

Wye Fellow; Aspen Institute Wye Faculty Seminar, July, 2003.

Grant (\$180,000) for Arabic dialect conversion texts, in cooperation with the National Capital Language Resource Center, 2002-2006.

Elected to Executive Committee of Modern Language Association's Association of Departments of Foreign Languages (ADFL), three-year term 1996-1999.

Interdisciplinary Initiative grant (\$50,000) for a new interdisciplinary Center for the Environment at Georgetown (1996).

Named to Sultan Qaboos bin Said Chair of Arabic, April, 1995.

Arabic Dialect Materials Grant (\$500,000) from Center for the Advancement of Language Learning, 1992-94.

Georgetown University Faculty Summer Research Grant, 1991.

Elected member of Executive Board of the American Association of Teachers of Arabic, 1979-1982; re-elected, 1988-91.

Elected to Georgetown Faculty Senate, 1988-91.

Certificates of Excellent Performance, 1981, 82 and 85, from US Department of State.

Certificates of Outstanding Performance, 1983 and 84, US Department of State.

Quality Step Increase Certificate "in recognition of high quality performance of official duties," US Dept. of State, 1985.

Academic and public service:

1. To Georgetown University:

Board of Governors, Georgetown University, 1996-2002
Board of Governors Executive Committee 1996-2002

Board of Directors, Georgetown University Press, 1994- present;

Chair, Department of Arabic and Islamic Studies, 1991-95, 1998-2000, 2002-2004

Main Campus Executive Faculty, Executive Faculty 1998-2000; 2003-2006
Executive Faculty Steering Committee 1999-2000

Center for Contemporary Arab Studies Executive Committee, 1999-2008

Executive Council of Georgetown College, 2001-04, 2005-7

Steering Committee of Executive Council, 2001-2002; 2006-07
 FLAS selection committee, 2004, 2005
 Advisor to EFL Division on teaching English to speakers of Arabic, 2006
 College Chairs Committee, 1998-2000, 2002-2004
 Faculty of Languages and Linguistics Chairs Committee
 Graduate School Dissertation Awards Committee
 Academic Appeals Board, January 2002, January 2004
 Study Abroad Advisory Committee for Middle East and Arabic-Speaking World 2001-2002
 Graduate School Grievance Committee 1999-2000
 Graduate School Executive Committee 1995-98 and 1999-2000;
 College Executive Council (as Chair of Arabic) 1998-2000
 College Executive Council Steering Committee 1998-99
 College Executive Council (as Dean of Interdisciplinary Programs) 1995-98
 FLL Faculty Development Committee, 1998-99
 Chair, Board of Interdisciplinary Program Directors
 Chair, Honorary Degree Committee and Graduation Ceremonies Committee 1996-98
 Main Campus Curriculum Committee Task Force Spring, 1995
 SLL Faculty Development Committee 1994-95
 Joint Appointments Committee, Summer 1994
 Restructuring Subcommittee of the Interim Executive Faculty, Summer 1994
 SLL (School of Languages and Linguistics) Council of Department Chairs and Division Heads
 SLL Executive Council
 Faculty Seminar on Georgetown's Jesuit Identity, 1995-97
 Middle States "Faculty Concerns" Committee Spring, 1992
 Chair of SLL Undergraduate Curriculum Committee, 1988-89; Member, 1988- 1995
 SLL Graduate Studies Committee, 1989-present;
 Master of Arts in Arab Studies (MAAS) Academic Program Committee
 MAAS Admissions Committee
 Arabic and Linguistics Department examination committees for dissertation defenses &
 comprehensive exams at Ph.D. and Master's degree levels;
 School of Business Administration Executive Committee (1990-93);
 University Senate, 1988-91

2. To the profession:

Executive Council, Modern Language Association, 2009-
 Executive Board, American Association of Teachers of Arabic (AATA), 2005-08, 1979-1981,
 1989-1991)
 President of AATA, 2007-08
 AMIDEAST Education Abroad Programs Arabic Language Advisory Board, 2008-
 Georgetown University Press Arabic Publications Advisory Board, 2008-
 Academic Council, Arabic Overseas Flagship Program, 2006 - 2008.
 Modern Language Association (MLA) Ad Hoc Committee on Foreign Languages, 2004-06.
 MLA Radio Committee, 2008-present.
 Arabic Language Village Advisory Committee, Concordia College, 2004 - present.
 National Advisory Board, Near and Middle East Language Resource Center (NRELRC), Brigham
 Young University 2002-present
 Grant evaluation panel member, National Endowment for the Humanities, Grants for teaching and
 learning resources and curriculum development, 2004
 National Steering Committee, Arabic for Interactive Communication Flagship Project, University
 of Washington, Seattle 2002-2005
 National Capital Language Resource Center (NCLRC) Advisory Board and consultant, 2001-
 present

MLA Task Force on Graduate Education, 1999
 Job counseling & mock-interviewing for job candidates at MLA Conferences, 1995-98
 MLA: Association of Departments of Foreign Languages (ADFL) Executive Committee, 1996-99
 Editorial Board, *Al-Arabiyya*, 1995-2000
 Member of Middle East Studies Association Program Committee, 1995
 Representative of AATA at MLA conference on "Achieving Consensus on Articulation in Foreign Language Education" Washington D.C., September 1994
 Voting representative for AATA to the Joint National Committee on Languages 1990-93, 2007present
 Voting representative for AATA to National Council of Organizations of Less Commonly Taught Languages (NCOLCTL), 1990-93
 Dissertation Award Committee, Middle East Studies Association, 1992
 Proposal Evaluator for National Endowment for the Humanities and the Guggenheim Memorial Foundation
 Book review editor, *Al-Arabiyya*, 1982

Language competence:

Arabic, French, Swedish; some German, Russian, Italian and Latin
 State Department Certified Language Proficiency Examiner

Professional memberships:

Modern Language Association (MLA)
 American Council on the Teaching of Foreign Languages (ACTFL)
 Association of Departments of Foreign Languages (ADFL)
 Society for the History of Alchemy and Chemistry
 Linguistic Society of America (LSA)
 North American Association for the History of Linguistic Science (NAAHOLS)
 American Association of Teachers of Arabic (AATA)
 American Council on the Teaching of Foreign Languages (ACTFL)
 Arabic Linguistics Society
 Medieval Academy of America
 Middle East Studies Association

Other memberships:

Swedish Council of America
 Swedish-American Historical Association
 American-Scandinavian Foundation
 Life member, the Nature Conservancy
 Angela Thirkell Society
 American Society of Dowsers
 Ephemera Society of America

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 71

Summarized Witness Statement of
Major General (Ret.) Mike Dunlavey,
Commander of JTF-170
(Feb. 2002-Nov. 2002) (March 17, 2005)

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~~SECRET//NOFORN~~**SUMMARIZED WITNESS STATEMENT OF MG (RETIRED) MIKE DUNLAVEY**

MG Mike Dunlavey, FORMER COMMANDER, JTF-170, was interviewed and made the following statement on or about 1007 hours, 17 March 2005, at WFO, Arlington, VA:

Appointment memos were shown to this witness. The witness went over the allegations.

Witness sworn by LtGen Schmidt. The witness provided the following testimony:

BACKGROUND:

How I became the JTF-170 Commander? I was working at the National Security Agency. On 14 February 2002, I was contacted to meet with the SECDEF. I received a joint service billet description. I met with the SECDEF on the 20th or 21st of February 2002, along with the Deputy SECDEF, Wulferwitz and a number of other personnel.

The SECDEF told me that DoD had accumulated a number of bad guys. He wanted to set up interrogation operations and to identify the senior Taliban and senior operatives and to obtain information on what they were going to do regarding their operations and structure.

The SECDEF said he wanted a product and he wanted intelligence now. He told me what he wanted; not how to do it.

Initially, I was told that I would answer to the SECDEF and USSOUTHCOM. I did not have to deal with USCENTCOM. Their mission had nothing to do with my mission. Everything had to go up to USSOUTHCOM then to JCS. The directions changed and I got my marching orders from the President of the United States. I was told by the SECDEF that he wanted me back in Washington DC every week to brief him.

I have 35 years of intelligence experience. I am a trial lawyer and between interrogations in Vietnam, being a CI Commander, and as a trial lawyer, I have done over 3,000 interrogations. The SECDEF needed a common sense way on how to do business.

The mission was to get intelligence to prevent another 9/11.

GTMO Situation:

Mike Lehnert did a miraculous job of getting Camp X-ray set up.

When I got to GTMO the facility consisted of literally a dangling fence. Detainees were right next to one another. In the Seabee hut for example, everyone saw who was being interrogated.

AR 15-6 GTMO Investigation
Exhibit 12 of 76 Exhibits

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DoD photographers were taking pictures for historical purposes. They published them with no regard for security. My job was to establish it.

██████████ was the Assistant J2. He worked up the JMD and tried to fill it with bodies to accomplish the interrogation mission.

We have not fought a real war since Vietnam. Except for DHS, our interrogators were virtually inexperienced. It was an OJT situation on the ground at GTMO.

When I arrived, I met the Special Agent in Charge (SAC) for the FBI. He was a SAC out of Miami. Interrogations had started but there was no system. For example, the interrogators thought ██████████ was the big dog. He made a lot of noise in the prison grounds but he was not the big guy. There simply was no process in place to assess who the real leaders were.

JTF-160 was losing control of detainees. There was a major riot with the detainees. They were shaking out their blankets and throwing food.

I tried to set up a process that would work for the FBI. ██████████ worked the U.S.S. Cole incident. He was the best interrogator. He was a native speaker and was very, very good.

The military linguists were worthless. They came out of school and could order coffee, but they were getting smoked by the detainees.

The guards were living no better than the detainees.

The standard was to treat them humanely.

Frankly, the 1992 version of FM 34-52 had a problem with it. It was 18 years old and it was how interrogations were done for POWs. We had world-class prisoners. Not EPWs or POWs. When we got them they had already been detained for five months and had their stories already down.

Physical torture does not work. It does not give you intelligence. Rapport, relationship dependency, the Koran, and the prayer beads give intelligence. It has to be a dependency relationship.

My people, the interrogators, got briefed on what my task force rules were.

The Geneva Conventions applied. I treated them as human beings, but not like soldiers. They had a significant culture. The rugs and beads were significant to me. I let them practice religion. ██████████

The detainees do not control the environment.

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Everyday we had undercover FBI agents or [REDACTED] interrogating. We did want to protect the identity of the people. We had news media almost continuously on the island.

[REDACTED]

We eventually got good information on who the leaders were and then we surprised them with a response team. We grabbed them and took them out to the Brig where the ICRC could see them, but they could not talk to them.

We had detainees that jumped the guards. There was a guy that took the MRE spoon, shaved it down and made a scalpel. We changed their sheets to the sheets in the federal prison system so they can't be torn or tied. They took magnets, welding rods, and fashion them into weapons. We collected a footlocker full of weapons.

INTERROGATIONS:

We built Tiger Teams [REDACTED]

The Combined Investigative Task Force (CITF) brought to the staff and the Joint Commander, a capability to collect evidence to criminally prosecute cases.

Our mission was to stop Americans from being killed. We were trying to work through the disconnect between the CITF mission and mine. I moved out smartly and met with the CINC.

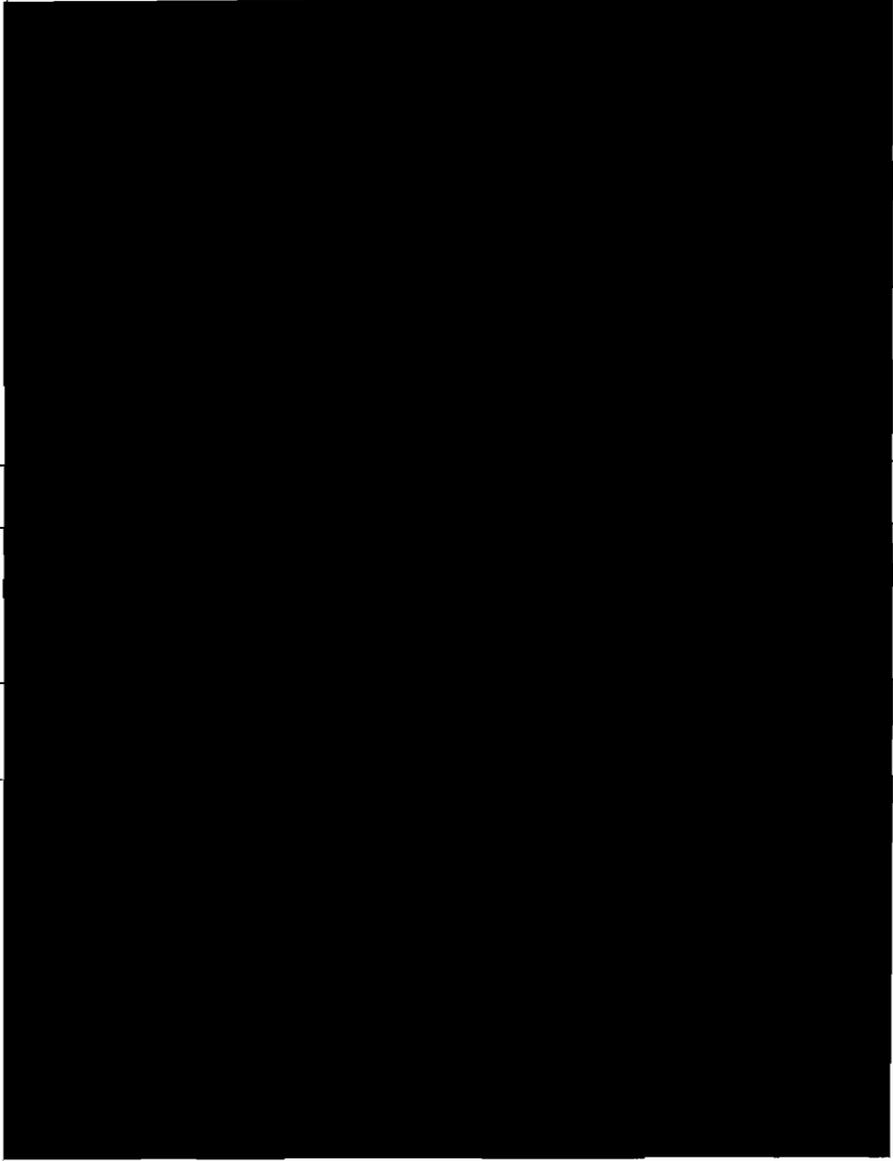
CITF was not under my control. I did not control the day-to-day operations. They had good investigative skills and had experience dealing with these people. We had mass murderers.

The FBI SAC came every two weeks. They could not decide what to do. They never built up any type of rapport. We had problems from the get go with the FBI. They had the best interrogators. Interrogations were done in my facilities. Any intelligence they got they would share with us.

We had an SOP on how we did business. We knew from the Manchester document that they would accuse us of torture and inhumane treatment. [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DETAINEE ISN 063:

ISN 063 was the Chief UBL Secretary. He was hard-core. [REDACTED]

[REDACTED]

The FBI took him for three weeks to 30 days. What happened? They reached a point and they realized they were getting nowhere. JCIF got their shot at him. FBI had their shot. [REDACTED] We had to up the Annie on what is going to work on this guy.

We put a proposal together. The whole cultural thing came to play. The Geneva Conventions came in to play regarding not threatening their family. They only cared about their family. We could not tell them that we had his family.

I thought only one thing worked. We looked at the Geneva Conventions. Nothing proposed was significant pain or torture. Before we did anything I had my JAG and other lawyers go to work on what was legal or illegal. That is how the proposal came out from LTC [REDACTED]. The plan went up through the Chain of Command. There was no firm policy on interrogation techniques. We used what was done in the past from the FBI. The plan went through General Hill at USSOUTHCOM then through JCS to OSD.

ABUSE ALLEGATIONS:

I would show up unannounced to see what was going on in the interrogations. Someone being out of line is very possible. I won't equate it to NYPD Blue. There were situations where a guy would urinate or jack off on a female interrogator. He did it to offend her. I would not allow them to use religion as a shield. The detainees threw feces at the guards.

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An Article 15 was given to a guard for bosing down a detainee. The detainee threw a bucket of urine on him.

If something was going wrong, the climate in the command was comfortable for self-reporting.

We all knew the rules; and we followed them period.

I fell on my sword for the guy that was 100 years old. He was 90 to 105 years old and in his 4th lifetime. He had no real good information. If he died we could not do a forensic study. I would violate Sharia. He was not an American soldier that would not come out in one piece. There were two other guys in their 70s to 80s. One was a cab driver that took Al Qaeda to the border. We got him out of there in October. We released 211 detainees. Only Al Qaeda reported abuses. None were abused. If a guy had information, we would focus on him.

The duct tape incident, I remember that. It was in June or July 2002. I did an internal investigation. They sat and screamed at us. I think the MPs helped the interrogators. I don't know if the guard was directed to restrain the detainee from doing something. As a judge if they screamed in court, I would tape them to a chair and tape their mouths. In a legitimate detainee facility, you would do it. If we did not, they would do it.

The detainees were treated humanely. They had a high status of care. They were not EPWs. They refused to identify themselves. On the postcards they gave us the wrong name.

Humane is who we are as the American military.

My first lesson was in Vietnam. I went out in the field and the South Vietnamese had two POWs. They got screamed at and kicked around. I watched what was going on. I was a graduate of DLA. There was a big plate of boiled rice with flies on it. I asked one of POWs when he had last eaten. He said, "four days ago and water two days ago". They chained him to a .50 cal and said he would kill him if he ran away. I had a canteen. I drank and gave him a drink. It worked. I got his name.

I employed what worked and did not work.

[REDACTED]

[REDACTED]

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I talked to LTC [REDACTED] about what his guys recommend we do to up the Annie. We talked to FBI, DHS, and CIIF. All techniques recommended were techniques generally used in the intelligence community. None was torture or inhumane treatment. The legal review was sent to General Hill. We came up with Category 1 and 2.

Removal of clothing? I don't remember unless it was a security issue. Naked is not the right thing to do. It is not effective and not a normal procedure. I don't remember ever reviewing a report of a detainee being found naked. I can't recall that happening. I can't say never.

Regarding the use of dogs. The dogs would be used to escort movement of personnel from detention to interrogation facilities. Dogs were there to intimidate. There were only four dogs in the whole facility. They were there to prevent riots and for security

The dogs were under control of the MP handler. They would have the dogs look at the detainees. On the other side of the coin, we do use the dogs as prisoner control in the federal system. We did not let the dogs bark or bite detainees. If [REDACTED] brought dogs to my attention, I probably would have approved it. We did not use the dogs on the prisoners.

Keep in mind, they don't like dogs. Unless the dogs are on patrol, they would be in an interrogation room. Using dogs is equal to the Fear Up technique. It breaks their concentration in their response to the interrogation techniques. They would be thinking about that dog. Is the dog a real threat? Absolutely not.

There was an interrogator that was [REDACTED] that had to be removed. He got into it with one of the detainees. It got out of control and he physically mishandled the detainee. He belted him and handcuffed him to the eye-bolt on the floor.

We physically removed an FBI agent when he went across the desk at a detainee. It happened in my first three months. He was a big kind of guy. The detainee said something like he knows his family and that he was going to kill them. I think it happened during my tenure.

FBI impersonation? No, not on a normal course of business. We did not identify who people were. The names and rank were covered. The FBI wore polo shirts and their badge. The CIIF did the same thing. It was part of the deception technique. Maybe there was a complaint. I never knew or heard about it. Would CIIF and FBI act as DoD? It could have been a technique.

Interfering with FBI; we had a significant difference of opinion. There was a management issue where [REDACTED] would come in and did not coordinate for a detainee because they wanted to talk to the detainee right away. FBI had interrogation plans.

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They did not brief DoD. CTF was going in without telling us. Every IP had to be coordinated for facilities and linguists.

Loud music and yelling was part of a sequence of events to disrupt the detainees thought process.

Chaining the detainee in a fetal position is not a normal procedure to be used in interrogation. If the detainee leaped at an interrogator, it might have been used for security. It is not a normal procedure. The interrogators were instructed not to touch the detainees. They were to leave it to the guards.

If short shackled, the detainee had done an offensive action.

Food and water deprivation I find incredibly hard to believe. BG Baccus would not have tolerated that. Short rations were a disciplinary process. ICRC was there everyday. The Chaplain was there everyday. The average detainee gained 16 pounds. They got medical attention everyday.

The detainees went on a hunger strike. When weight metabolism decreased they went down to the medical facility. They had to give the detainees forcible IVs. They wanted Ensure. We made a joke about it.

There was no lap dance or rubbing up on detainees. There is no doubt the interrogators took off their BDU tops. They wanted to be comfortable. The hardcore detainees did not respond to women. They would not look at women. I did not approve it under any circumstances. It was stupid and offensive under the Geneva Conventions. It does not serve any useful purpose. If that occurred, I want to see the FBI report.

Red ink used as menstrual fluid? I've never heard of that technique. It would disrupt the intelligence and prosecution gathering operations.

Ghost detainees...every person that landed on the island was processed through the MP cycle.

JTF-160 was in disarray when I took over. They had 60 outstanding Inspector General complaints. We tried to clean up as much as we could before MG Miller came.

JTF-170 served two Article 15s to two individuals for personal misconduct. It was not detainee related.

Six weeks later we discovered our best interrogator was [REDACTED]. He was prosecuted and [REDACTED] and was under investigation. He was under surveillance for [REDACTED]. The tough part was he was our best interrogator. He was sent back for prosecution.

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There was a LTC Reservist who was a closet alcoholic. He was part of [redacted] contingent. He could not perform and I suspected something was wrong. His roommate told us that he was downing alcohol every night. I had him removed.

Other than the incident with FBI contractor that physically went after the detainee, I don't recall any other problems with FBI agents and detainees. LTC [redacted] and LTC [redacted] might have counseled someone for wrong or inappropriate behavior.

I counseled people on the lack of preparation. I did it as a group. I counseled FBI. I never had information from the IG or JAG that we had a problem. It would stick out.

[redacted] and FBI did separate interviews. I have faith that the [redacted] was not abusing detainees. I had a high degree of faith. I had access to anything I wanted.

I also had high faith that the FBI was conducting proper interviews. Physical abuse just does not work. Successful prosecution was their goal. They did not want to jeopardize that.

We had four to six guys in Camp X-Ray. To put a detainee in X-Ray required that we notify USSOUTHCOM and JCS and we would have done a report in writing.

I was interviewed for the Church report.

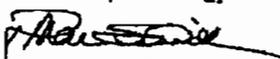
Virtually no one had a degree of expertise to deal with these people. They do not subscribe to our values legally and morally. We did benefit from some great young people. We had a native Pakistani that was fluent in Arabic.

[redacted]

FBI's approach was that you would stay in jail if you did not talk to us.

Was ISN 063 tortured? No.

I declare under penalty that the foregoing is a true and correct summary of the statement given by the witness, MG (ret) Mike Dunlavey. Executed at Davis-Monthan Air Force Base, Arizona, on 29 March 2005.


 RANDALL M. SCHMIDT
 Lieutenant General, USAF
 AR 15-6 Investigating Officer

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 82

Richard Creaser, "An Unlikely Recruit in the War on
Terror," Barton Chron. (Barton Vt.) (Apr. 7, 2004)

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unlikely recruit in the War on Terror

Written by Richard Creaser

Published April 7, 2004

BARTON – The Candlepin Restaurant outside Barton Village is perhaps the last place you would expect to meet a woman of international mystery. As unlikely as that meeting might be, however, it is still very much true.

Greta Kipp of Irasburg is an engaging and animated speaker. She seems an unlikely candidate to fight the War on Terror, but that is precisely what she has done.

As a translator assigned to Joint Task Force 170, since renamed Joint Task Force Guantanamo, Sergeant Kipp worked directly with the hundreds of detainees captured during the anti-Taliban operations in Afghanistan.

From January 2002 until February 2003 she was the voice of the largely Arabic-speaking group of expatriate fighters at the Guantanamo Bay base in Cuba.



A pleasant and mild mannered twenty-something, Sergeant Greta Kipp of Irasburg seems an unlikely player in the War on Terror. From January 2002 until February of 2003, she served as a translator for the mostly Arabic detainees being held at Camp X-Ray at the Guantanamo Bay military base in Cuba.

She was tasked with aiding in the interrogation of war-hardened fighters and impressionable youths alike. Her daily routine involved passing through nine sally ports and under rows of razor wire at the Cuban detention center known as Camp X-Ray.

"I had never been in a maximum security anything before I went there," she said in an interview at the Barton restaurant Tuesday. "It was really a depressing place, and I really didn't have any way to release that. We were working 18 hours a day, and if you were lucky, you unwound with a few beers before going to sleep."

She was one of only five translators sent to try and deal with over 400 detainees shipped to the base in early 2002.

"I knew I was going to be deployed somewhere, but I really had no idea where. How do you pack when you don't know if you are going to Afghanistan, where it's below zero, or to the Caribbean?"

The early days were spent trying to address the many and varied needs of the prisoners, she said. Before any interrogations could begin, they needed to get the men food and medical attention. Ms. Kipp's linguistic skills were put to the test almost immediately.

"I had taken a very intense crash course in Arabic," she said. "I knew a lot of military terms and I knew some of their culture and religion, but I was not prepared for a lot of what I needed to do."

One of the most difficult aspects was attempting to run relay between the medical staff and the injured detainees.

"How do you explain to someone that the doctor needs to amputate their leg? How do you explain that to someone you don't know in a language you don't fully understand yourself?"

Getting the fighters set up and into the routine at the camp was a huge but not insurmountable task, she said. The base was whipped to handle a large, sudden influx of people, at least more so than anything back in Afghanistan.

Earning enough of the trust of the detainees was a more difficult task to accomplish, said Ms. Kipp. The Muslim traditions were very strong in these men, and part of that tradition involves a complicated ritual of greetings and small talk, she said.

"It was hard explaining to them that I have four hours to spend with them, and we are spending three and a half of those going through the hundreds of greetings."

This was a fact frequently lost on the actual interrogator, she said. Lacking the baseline understanding of how conversations flowed in Muslim society, the interrogators would often just jump right in, introduce themselves and start asking questions, she said.

"It was really hard to tell them what they were doing was wrong, because you didn't want to undermine their authority as interrogators," she said. "Sometimes all you could do was nudge them with your elbow or kick them under the table and get them to stop."

Mistakes came often and with greater frequency than could be desired, said Ms. Kipp. Luckily, as the errors were discovered, the army quickly acted to right the wrongs and adjust its own protocols.

"By the time I left, I can say that things were definitely running smoother than during those first few months."

One of the first changes was ensuring continuity of staff, she said. Building a rapport with the detainees was hard — and harder still when the personnel that built up some rapport shipped out or back home every few months.

"At first, the FBI guys were there for 30 or 45 days," she said. "They'd just start to build that trust and they'd be gone again."

When possible, the same translators would be used in successive interrogations, she said. Familiarity like this helped to foster an environment of trust and respect, most of the time at least.

Some of the detainees professed strong Muslim beliefs, and the sight of a western woman with her arms exposed above the elbow was offensive to them. In some cases, it became a matter of simply moving out of sight behind the detainee.

That sort of accommodation came with its own set of problems. Words could be misheard when the speaker was speaking with his back to you, said Ms. Kipp.

Misrepresentation was always a fear, particularly when she realized that any mistake on her part could extend the detainee's captivity. Arabic grammar structure and speech patterns are so alien that it was not uncommon for her to mistake one word for another.

"The Arabic word for communist and X-ray sound pretty much the same to me. It took a long time for me to understand that one man was telling me he came to Afghanistan to fight the communists."

The need to retread ground repeatedly grated on the nerves of the detainees, who had difficulty understanding where and why they were being held, she said. That sense of isolation and hopelessness compounded the difficulty in encouraging them to speak openly with the interrogation teams.

"A lot of the ones picked up by the Pakistanis were put into airplanes and told they would be returned home. They arrived in prisons in Khandahar and are told there that they're going home, only to climb into a plane and end up thousands of miles further away, with no idea of when they might get home."

Having constantly been told things that ultimately were false, some of them had difficulty believing that their situation would improve if they cooperated, she said.

Some, however, believed that the surest way to get back home was to cooperate, and gladly told their entire story from cradle to Cuba. Knowing that the men who willingly cooperated were still in detention was a blow to Ms. Kipp's confidence.

"I had to remind myself that these men made a choice, a wrong choice as it turns out. They were being detained because of things they had done themselves when they joined up with Al-Qaeda or the Taliban."

The prisoners often complained of their treatment and their inability to communicate with their families. Any discussion with the detainees inevitably churned up the same sorts of complaints, said Ms. Kipp.

"That's when I started asking them what kind of treatment I could expect if I were a prisoner of Al-Qaeda or the Taliban or Hamas or Hezbollah. That usually stopped them right there."

Ms. Kipp feels no need to be ashamed or apologetic for her role at Camp X-Ray. She was performing a task that needed to be done to ensure that future terror attacks could be averted.

"I am not going to defend the policy because I am not George Bush's first advisor. I was a soldier doing my job.

"There are things I think we could have done better, like screening the detainees before flying them out. It's not a perfect system, but we try really hard not to make the same mistakes twice."

With her five years of military service now behind her, Ms. Kipp is looking forward to a few years of college before embarking on whatever endeavors the future might hold. She is finishing out the spring semester at Lyndon State College in preparation for transferring to another school in the fall.

"I'm not 100 percent sure where I'm going, but I expect to hear back from some schools in the next week or two," she said.

Her plans include making use of her experience as a translator, but not necessarily becoming a translator herself.

"Translating is an incredible skill, but it's not a real heavy intellectual pursuit. You are translating someone else's work, and I want to get into something where my intellect shows through."

Arabic speaking individuals have many options open to them, and Ms. Kipp is hoping to finesse her way into a position where she can use her language skills professionally. One option is joining the State Department.

"That might be a little risky, though, because I don't want to end up rubber stamping visas in the Sudan."

A late start at college has sometimes led her to wonder if she made the right choices. But, a single semester into a college career, she has already discovered that her military service was not a waste of time.

"I know that I'm a thousand times better prepared for college than I would have been at 18 and coming out of high school. I can manage my time and I can focus on making the choices I need to make to get where I want to go.

"I don't get stressed out if I need to study a couple of extra hours for an exam. You don't get stressed out once you've seen what real stress is like."

Reflecting on her decision to join the armed forces, Ms. Kipp doesn't hesitate to say that she would recommend the experience. Army life is not ideal for everyone, she said, but it is good for people who aren't quite sure what they want to do with themselves.

"I wasn't worried that I'd become one of those indoctrinated people who don't know how to get along in civilian life. The Army didn't tell me what I was going to become, what my personal beliefs are, or who I really am. It helped me figure that out for myself."

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

LAKHDAR BOUMEDIENE, et al.)	
<i>Petitioners,</i>)	
v.	)	Civil Action No. 04-cv-1166(RJL)
GEORGE WALKER BUSH, et al.)	
<i>Respondents.</i>)	

DECLARATION OF ARTHUR BROWN

I, Arthur Brown, hereby declare:

1. My name is Arthur Brown. I am over 18 years old. This declaration contains a complete statement of all opinions that I express in connection with this case, as well as the basis and reasons for them, including the data and information that I considered in forming my opinions. I am prepared to testify to the facts and opinions stated herein if called upon to do so. I am also prepared to testify about the knowledge, skill, training, education, and experience that I have acquired which informs my opinions, and the principles and methods I applied in reaching them. My qualifications are summarized in this declaration and also contained in my curriculum vitae (a copy of which is attached as Exhibit A), which includes all publications that I have authored in the previous 10 years. I have never testified as an expert at trial or by deposition in the past. Other than compensation for travel and related expenses, I am not being compensated for my work and testimony in this case. With the Court's permission, I may prepare and use one or more exhibits, if called upon to testify, to summarize, or support my opinions. I have not to date prepared any such exhibits.

2. I am a citizen of the United States. I have held several positions at the Central Intelligence Agency ("CIA") between 1980 and my retirement in 2005. The bulk of this career was spent as an Operations Officer of the Directorate of Operations in overseas positions. I was the senior CIA representative in three Asian capitals in Northeast and Southeast Asia. I was Chief of East Asia Division for the CIA's Clandestine Service at the time of my retirement in 2005 and was previously the National Intelligence Officer for East Asia between 2002 and 2003. I advised President George W. Bush in person and routinely testified in closed-door sessions before Congressional committees on national security, economic and regional stability issues. The CIA awarded me the Distinguished Career Intelligence Medal and the Donovan Award in 2005, the Director's Award in 2004, the Exceptional Performance Award in 2002, 2003, and 2004, and the

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Meritorious Unit Citation in 1991, 1997, and 2000. I also received the following foreign awards: Order of Diplomatic Merit by South Korean President Kim Dae-Jung, 1999, and Director's Service Plaque, Malaysian Special Branch, 1992.

3. Following my retirement from the CIA, I served as Senior Vice President of Control Risks Group, a security consulting company based in London, England until 2007. I currently own MidSight Consulting LLC, a business risk consulting company based in Vienna, Virginia.
4. I hold a B.A. degree in Japanese language studies from San Francisco State University and did graduate research at Kumamoto National University in Japan. I also completed the Indonesian Language Program at the Foreign Service Institute. Between 1971 and 1972, I served as a Combat Correspondent, U.S. Army in Vietnam. My military awards include the Joint Service Commendation Medal, Army Commendation Medal with oak leaf cluster, and the Vietnam Service Medal.
5. I learned of the facts described in this declaration through my own twenty-five years of experience and observation at the CIA, and through speaking with others in the intelligence community—both within the CIA and in other intelligence entities—with personal knowledge of the facts attested to herein.
6. During my career, I reviewed at least 10,000 “raw” or unfinished reports prepared by CIA, the Defense Intelligence Agency (DIA), and military services “collectors” reflecting “human intelligence” (HUMINT) that were disseminated into intelligence “message traffic.” I also was the recipient of a similar number of reports based on the other intelligence disciplines, especially the product of signals and imagery collection. By virtue of my subsequent positions as the National Intelligence Officer for Asia and CIA's East Asia Division Chief, as well as my other positions at the CIA, and through discussion in the ordinary course of business with senior CIA managers, other intelligence community members, and senior military leaders, I learned the facts and reached the conclusions described below. Moreover, through my responsibilities, which included receiving intelligence reports from throughout the world that related to threats in Asia, and through discussion with senior CIA managers in the ordinary course of business, I know that the problems and changes described herein applied throughout the intelligence community and with regard to all regions on the globe.
7. The opinions I express in this declaration are based on the entirety of the experience and knowledge I have gathered throughout my career.

Intelligence Collection

8. In order to provide reasonable quality control over a raw human intelligence report disseminated in message traffic, the collector would, among other things, need to investigate a source's basis for knowing the information reported (known in the intelligence community as the “chain of acquisition”), evaluate whether the

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source appears to be reporting credibly, and evaluate whether it is reasonable to believe that the source has the information he is reporting. In addition, the collector himself would have to be an experienced and knowledgeable agent with facility in the language spoken by the source, familiarity with the local culture, and high-level awareness of the political and social situation in the relevant territory.

9. In my experience at the CIA, as a general matter, quality control was routinely a problem as intelligence collectors often did not exercise much screening over the raw data they collected, and frequently could not verify the veracity of the sources of that raw data. Intelligence collectors in some cases did not understand the substance of their reports, nor did they know enough about the sources to fully substantiate their reporting.
10. While the failure to provide some quality control to the raw data reported in intelligence reports was always a concern in intelligence reporting, it is my opinion, based on my knowledge of intelligence collection between 1980 and 2005, that the problem became even more acute after the attacks against the United States on September 11, 2001. The failure in quality control was most acute with respect to raw data that had any relation (however remote) to possible terrorist activities.
11. After September 11, 2001, the intelligence community was palpably concerned about the "next" possible terrorist attack and the risk that the community would be blamed for failing to detect it. This led intelligence collectors to record and disseminate virtually all raw information they received, regardless of reliability or quality. As a result, the intelligence community tolerated – and, to a large extent, tacitly encouraged – the distribution of unreliable, unverified, faulty, and even erroneous intelligence reports. It is my opinion, based on conversations with colleagues throughout the intelligence community, that these same pressures were at work not only at the CIA, but also inside other intelligence, defense, and law enforcement organizations such as the Federal Bureau of Investigation (FBI) and military intelligence entities such as the Defense Intelligence Agency (DIA) and Department of Defense (DoD) Human Intelligence (HUMINT) services.
12. The failure to maintain quality control over raw intelligence reports resulted from a conscious decision within the intelligence community that any data collected should be disseminated, so that the community could not be accused of having withheld information later deemed relevant to counterterrorism efforts—an accusation frequently leveled against the intelligence community after the attacks on September 11, 2001. The CIA leadership in 2001 made the decision after the events of 9/11 to encourage that all collected information, even if unsubstantiated, be disseminated through intelligence reports. As a result, the number of intelligence reports describing threats skyrocketed but the quality of those reports did not.

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13. The result of the poor quality control over intelligence reporting and the proliferation of unsubstantiated intelligence reports was that the intelligence system was flooded with unreliable reports. There are many examples of such reports.
14. For instance, some months after 9/11, I received a CIA report about a kamikaze-style air attack on a United States Navy Base in a South Pacific Island location. The report originated from a CIA office in the Middle East and, in an accompanying explanation, cited the ultimate source by first name only indicating the last name was unknown. At the time of the report, the United States Navy did not have a base on that Island, had never had one there, nor had a single ship from the Navy's Seventh Fleet - the Pacific Fleet - ever visited the Island's port. Nonetheless, the raw report was disseminated in the message traffic to the U.S. intelligence community worldwide.
15. In the winter of 2001, I received a report from a United States military investigations unit stating that Osama bin Laden had been spotted in the Post Exchange on a U.S. military base in East Asia. The report advised that bin Laden was there shopping. The report was utterly unbelievable, yet it was disseminated to the intelligence community.
16. Even before September 11, 2001, I received a report from a separate United States military investigations unit that North Korean terrorists planned to assassinate a United States General and destroy bridges across the mid-town river in Seoul, South Korea. Although the immediate impact of the report sent the U.S. military to heightened alert status, it was later discovered that this plot actually was a South Korean police training exercise scenario. The intelligence collector had reported it as a real threat because the collector and his source did not speak a common language.
17. Senior United States military commanders in Asia complained to me by the summer of 2002 that these intelligence reports were "numbing" the system, meaning that the flood of unsubstantiated threat reporting diminished their ability to distinguish real threats from noise. They asked that I, as the senior CIA representative, personally call them when I thought an intelligence report was truly significant. This proposed solution was rejected by CIA headquarters. I was told that I could not discard those intelligence reports that I did not find credible.
18. Some of my colleagues put forward a proposal to attach a statement to the bottom of reports that would say in sum or substance: "I, the Chief of Station, have read this report produced by my officers and am disseminating it as I believe it is credible," or that, "I do not find this report credible but am disseminating it to provide a sense of the rumors in circulation." This proposal was rejected as well. Senior leadership at the CIA expressed the view that those in the field should not exercise our professional discretion and judgment about the credibility of reports, lest that exercise come back to haunt the CIA were we ever shown to be wrong in our judgments.

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19. In addition to an institutional desire not to be seen to have "withheld" information, intelligence agencies also had a strong institutional interest in producing more and more reports. Each agency's consumers and overseers in the Executive and Legislative branches demanded proof that the intelligence community was taking the threat of terrorism seriously. Officials from the intelligence community routinely made presentations showing the numerical increase in raw intelligence reports compared to the previous year. All members of the intelligence community, including the CIA, DIA, DoD HUMINT Services, and the FBI, were affected in this way.
20. In fact, case officers and managers were, at the time, often evaluated by the number of reports they produced. Quality was not as easily measurable. In my experience, the military members of the intelligence community were just as interested in the number of reports being produced as was the CIA.
21. The problem with such thinking is obvious: it is much like evaluating marksmanship by measuring rounds fired on a shooting range, rather than measuring how many rounds actually hit their targets. More is more, but it is not necessarily better. In the case of intelligence reporting on terrorist threats after September 11, more was worse.
22. Because these reporting problems were never confronted, there are now tens of thousands – if not hundreds of thousands –of intelligence reports, including raw human intelligence reports that have been put out by DIA, DoD HUMINT Services, and the CIA, of little to no credibility. These reports are still on the record and it is now possible, for instance, for a person attempting to support a particular narrative or agenda to possibly cherry-pick the reports that appear to support that agenda.
23. It is my understanding that current CIA management has recognized this problem and has taken strong steps to correct the quality of their reporting. They are to be applauded for this but the problem still exists with historical reporting during the 2001-2005 timeframe. During my time at the CIA, the intelligence community had not made an effort to look back at all of these reports to determine the success rates of the sources used in the reports. For example, it would be useful to know if a source was right 5 out of 50 times, or 40 out of 50 times, so that there would be some measure of the source's reliability. As of 2005, the track records of its terrorist sources were not investigated on any systemic basis.

Credibility and Reliability of Intelligence Reports

24. In my experience as an intelligence officer at the CIA, it is not possible to make a determination as to whether an individual is a threat based solely on a raw intelligence report, because raw intelligence reports do not contain sufficient information to judge the credibility of the source or the reliability of the information reported.

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25. Even those aspects of an intelligence report that, to a layperson, might appear to speak to the credibility and reliability of the report, did not necessarily do so as of 2005.
26. Source descriptions were generally vague and often had little connection to the reliability and credibility of sources. Source descriptions often related only the subjective views of individual reports officers and were frequently of little use to the consumer. Accordingly, descriptions of a source's "access" or past reporting record did not provide a reader with any basis for determining the true reliability of the information in the actual report. It is my understanding that the CIA's management has taken serious steps to correct this problem since 2007.
27. It is my opinion that raw intelligence reports cannot be taken in isolation as credible evidence, without a full assessment of the reliability of the source and the context of the information in regards to all other available intelligence on the subject. It would be a serious error to act on a single report, or even on a set of multiple reports, without ensuring that all other available information had been taken into account and assessed by a person with sufficient knowledge and experience to determine the actual facts.

Taking Action Against A Potential Threat

28. Generally, it is not possible to take positive action against a purported threat based merely on written raw human intelligence reports. In my experience, raw intelligence reporting may provide an appropriate basis to watch a person, but unless a credible and reliable source can give specific incriminating information about a suspect that can be independently verified, it is not appropriate to take positive action against a suspect on the basis of a source's say-so as recorded in a raw human intelligence report. In other words, a report may be sufficient to take defensive steps to protect against a reported threat, but generally will not support affirmative steps to capture or detain the concerned individuals suspected of posing that threat without additional and convincing evidence.
29. In my experience, the most appropriate response to a raw human intelligence report containing a potentially serious threat is to double check with all available means to determine the true nature of that threat. It is also necessary to work with local authorities, such as the local police force, to determine whether a U.S. reporting officer's assessment may have been in error due to issues of language, cultural unfamiliarity, or lack of knowledge of the situation on the ground. Local authorities are often best positioned to determine if someone poses true threat.
30. Accordingly, it is my opinion that the mere fact that a raw human intelligence report asserts that a person poses an apparent threat is not a sufficient basis for action against the person mentioned. Instead, it is at best a basis for further inquiry based on all other intelligence information available regarding the situation.

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Holding Multiple Passports

31. Holding multiple passports is not evidence that a person is a terrorist or a Muslim extremist. There are many reasons why people hold multiple passports, including fraudulent passports, and many different kinds of people hold them. It is common for ordinary criminals trafficking in cross-border contraband to hold multiple passports, including fraudulent passports. In fact, during the first Gulf War, I was tasked to resolve issues concerning Middle Eastern individuals traveling in Asia with fraudulent and sometimes multiple passports. In this process we wound up dealing with scores of low-level criminals involved in smuggling contraband or seeking to avoid taxes, who used fraudulent passports when traveling in Asia. One such traveler acquired additional fraudulent documents, in this case a fake British passport, while under detention in a local jail. Accordingly, it is my opinion that the mere fact that an individual possesses multiple passports, including one or more fraudulent passports, is not a basis for concluding them a terrorist threat.

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I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

Executed on October 12th, 2008.

A handwritten signature in black ink, appearing to read "Arthur Brown", written in a cursive style. The signature is positioned above a horizontal line.

Arthur Brown

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Attachment A

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

LAKHDAR BOUMEDIENE, et al.)	
)	
<i>Petitioners,</i>)	
	)	Civil Action No. 04-cv-1166(RJL)
v.)	
)	
GEORGE WALKER BUSH, et al.)	
<i>Respondents.</i>)	

SUPPLEMENTAL DECLARATION OF ARTHUR BROWN

I, Arthur Brown, hereby declare:

1. My name is Arthur Brown. I am over 18 years old. This declaration contains a complete statement of all opinions that I express in connection with this case, as well as the basis and reasons for them, including the data and information that I considered in forming my opinions. I am prepared to testify to the facts and opinions stated herein if called upon to do so. I am also prepared to testify about the knowledge, skill, training, education, and experience that I have acquired which informs my opinions, and the principles and methods I applied in reaching them. My qualifications are summarized in this declaration and also contained in my curriculum vitae (a copy of which is attached as Exhibit A), which includes all publications that I have authored in the previous 10 years. I have never testified as an expert at trial or by deposition in the past. Other than compensation for travel and related expenses, I am not being compensated for my work and testimony in this case. With the Court's permission, I may prepare and use one or more exhibits, if called upon to testify, to summarize, or support my opinions. I have not to date prepared any such exhibits.

2. I am a citizen of the United States. I have held several positions at the Central Intelligence Agency ("CIA") between 1980 and my retirement in 2005. The bulk of this career was spent as an Operations Officer of the Directorate of Operations in overseas positions. I was the senior CIA representative in three Asian capitals in Northeast and Southeast Asia. I was Chief of East Asia Division for the CIA's Clandestine Service at the time of my retirement in 2005 and was previously the National Intelligence Officer for East Asia between 2002 and 2003. I advised President George W. Bush in person and routinely testified in closed-door sessions before Congressional committees on national security, economic and regional stability issues. The CIA awarded me the Distinguished Career Intelligence Medal and the Donovan Award in 2005, the Director's Award in 2004, the Exceptional Performance Award in 2002, 2003, and 2004, and the

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P. 11/13

Meritorious Unit Citation in 1991, 1997, and 2000. I also received the following foreign awards: Order of Diplomatic Merit by South Korean President Kim Dae-Jung, 1999, and Director's Service Plaque, Malaysian Special Branch, 1992.

3. Following my retirement from the CIA, I served as Senior Vice President of Control Risks Group, a security consulting company based in London, England until 2007. I currently own MidSight Consulting LLC, a business risk consulting company based in Vienna, Virginia.
4. I hold a B.A. degree in Japanese language studies from San Francisco State University and did graduate research at Kumamoto National University in Japan. I also completed the Indonesian Language Program at the Foreign Service Institute. Between 1971 and 1972, I served as a Combat Correspondent, U.S. Army in Vietnam. My military awards include the Joint Service Commendation Medal, Army Commendation Medal with oak leaf cluster, and the Vietnam Service Medal.
5. I learned of the facts described in this declaration through my own twenty-five years of experience and observation at the CIA, and through speaking with others in the intelligence community—both within the CIA and in other intelligence entities—with personal knowledge of the facts attested to herein.
6. During my career, I reviewed at least 10,000 "raw" or unfinished reports prepared by CIA, the Defense Intelligence Agency (DIA), and military services "collectors" reflecting "human intelligence" (HUMINT) that were disseminated into intelligence "message traffic." I also was the recipient of a similar number of reports based on the other intelligence disciplines, especially the product of signals and imagery collection. By virtue of my subsequent positions as the National Intelligence Officer for Asia and CIA's East Asia Division Chief, as well as my other positions at the CIA, and through discussion in the ordinary course of business with senior CIA managers, other intelligence community members, and senior military leaders, I learned the facts and reached the conclusions described below. Moreover, through my responsibilities, which included receiving intelligence reports from throughout the world that related to threats in Asia, and through discussion with senior CIA managers in the ordinary course of business, I know that the problems and changes described herein applied throughout the intelligence community and with regard to all regions on the globe.
7. The opinions I express in this declaration are based on the entirety of the experience and knowledge I have gathered throughout my career.

Interrogation

8. In my experience, linguistic and cultural barriers between interrogators and subjects severely limit what information the interrogator can gain, especially from non-verbal clues. In my experience, body language and other non-verbal clues are far from universal; they vary widely from one culture to another. As a result,

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unless the interrogator is truly fluent in the subject's language, something is nearly always lost in translation between the interrogator's language and culture and those of the subject's.

9. For example, in my experience with the intelligence community's best administrators of polygraphs, unless the administrator is very capable in the language of the person being given the polygraph test, the administrator is not able to determine anything but what the subject admits to. In one circumstance, I heard a polygraph administrator state that, whenever a particular Asian subject did not deny something, he took the subject to be admitting it. The polygraph administrator's assumption was incorrect, because it relied on Western assumptions of resistance to false accusations, rather than the cultural practices of the Asian subject. In that Asian culture, false accusations were often treated to stony silence so as not to give your accuser even the respect of responding.
10. It is accordingly my opinion that a failure to answer a question during an interrogation, a refusal to participate in a polygraph test, or an inability to pass a polygraph test, cannot be taken as evidence of mendacity unless the subject positively admitted to wrong-doing. In my former capacity, I would have put no faith in any polygraph results based on body language and little faith on negative polygraph results without positive, credible admissions.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 12th, 2008.

A handwritten signature in black ink, appearing to read "Arthur Brown", written over a horizontal line.

Arthur Brown

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Attachment B

JA 671

Arthur M. Brown

Summary Qualifications:

Highest-ranking officer specializing in Asian Pacific affairs within the Clandestine Service of the Central Intelligence Agency; former National Intelligence Officer (NIO) for East Asia; three times Chief of Station in Asia Pacific region; lived and worked in Asia and Africa for over twenty years. Directed all CIA Asian Pacific field operations, overseeing security for large dispersed staff while managing projects in the hundreds of millions of dollars. Advised President George W. Bush in person and routinely testified in closed-door sessions before Congressional committees on national security, economic and regional stability issues. Only Agency officer to consecutively serve at the top of both the Asian analytical and operational disciplines as NIO and then corresponding regional Division Chief, with personal relationships established during Agency career at the head of state and Cabinet level across the Asia Pacific region. Fluent in Japanese, familiar with Indonesian.

Professional Experience:

Managing Director, MidSight Consulting LLC **2007-Present**

- Provide governmental and private sector risk management practices to selected clients engaged with Asia.

CEO, Control Risks Group (U.S. subsidiary) **2005-2007**

- Promoted full range of business risk mitigation practices to private enterprises engaged abroad
- Directed the business strategy of CRG on all US Government contracts.

Chief of East Asia Division, CIA Directorate of Operations **2003- 2005**

- Personally advised the President of the United States, his senior staff and key Congressional leaders on critical regional issues.
- Directed the operational strategy of all CIA activity in Pacific region.
- Negotiated new relationships with intelligence and security agency counterparts in Asia and globally.
- Directed CIA responses to hostile counterintelligence and terrorist threats against U.S. and allied interests; oversaw the physical and operational security of all CIA personnel in Asia and the Pacific.

National Intelligence Officer for East Asia**2002-2003**

- Served as the nation's top Asia area expert on intelligence issues; most frequent CIA briefer to appear before Senate Intelligence Committee.
- Organized and personally led Intelligence Community briefing teams to the highest levels of foreign governments.
- Guided multidisciplinary analytical teams in producing National Intelligence Estimates on critical Asian developments.

CIA Field Manager in Asia and Africa**1988-2002**

- Served three times as the Senior CIA Representative in Northeast and Southeast Asian countries.
- Built a strong and enduring set of relationships with foreign government officials.
- Established CIA crisis management countermeasures to terrorist and hostile intelligence threats against the largest U.S. military and civilian populations in Asia; executed countermeasures on several occasions.
- Initiated personal liaison with Commander of U.S. Forces in the region and the U.S. Seventh Fleet; greatly strengthening CIA integration with the U.S. military.
- Negotiated complex joint endeavors with foreign intelligence, security and law enforcement organizations.
- Negotiated with African warlords to protect U.S. interests; created the evacuation plan that, in subsequent activation, safely withdrew all CIA personnel from a war-torn African capital.

CIA Case Officer**1980-1988****Combat Correspondent, U.S. Army, Vietnam****1971-1972**

Awards include Joint Service Commendation Medal, Army Commendation Medal with oak leaf cluster, Vietnam Service Medal.

Education:

Indonesian Language Program, Foreign Service Institute
Graduate Studies, Kumamoto National University, Japan
B.A. Japanese Language, San Francisco State University

Foreign Awards:

Medal of Commendation, National Police Agency of Japan, 2002
Order of Diplomatic Merit by South Korean President Kim Dae-Jung, 1999
Director's Service Plaque, Malaysian Special Branch, 1992

Central Intelligence Agency Awards:

Distinguished Career Intelligence Medal, 2005
Donovan Award, 2005
Director's Award, 2004
Exceptional Performance Awards, 2002, 2003, and 2004
Meritorious Unit Citation, 1991, 1997, and 2000

Publications:

"North Korea's Stacked Deck," Op-Ed, New York Times, 15 July 2008
"Political Risk," Guest Editorial, Risk Mitigation Executive, 13 June 2005

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 26

ISN 156 SIR (May 29, 2002)

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JA 467

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~~SECRET//NOFORN~~

000156 SIR 29-MAY-2002.txt

Summary Interrogation Report: 000156 SIR 29-MAY-2002

~~(S//NF)~~ SUBJECT: ISN USORR 00016601 ADAN RAHMAN ABDI
 ABDULLAH ABDEL RAHMAN IS A 21-YEAR-OLD WHO CLAIMS BANGLADESHI CITIZENSHIP.
 SOURCE WAS IN AFGHANISTAN TO AID IN THE IMPROVEMENT OF THE ISLAMIC STUDIES CENTER IN
 KABUL. SOURCE WAS CAPTURED ON HIS WAY TO THE PAKISTANI BORDER. SOURCE RELIABILITY
 HAS NOT BEEN DETERMINED.

1. ~~(S//NF)~~ SUMMARY: 2. INTERROGATED ((ABD AL RAHMAN ABD)) ALLAL AB ALJALLIL ON
 2. FOR 2 HOURS. THE INTERROGATION WAS CONDUCTED IN ARABIC USING FBI LINGUIST
 2. AS AN INTERPRETER.

2. ~~(S//NF)~~ APPROACH USED: SOURCE WAS QUESTIONED IN DEPTH ABOUT THE MEDICAL
 CIRCUMSTANCES SURROUNDING HIS TRAVEL TO AF. SOURCE CLAIMED HE WAS INJURED IN A CAR
 ACCIDENT WHEN HE WAS 16-YEARS-OLD. AS A RESULT, HE REQUIRED ADDITIONAL SURGERY IN
 PAKISTAN. SOURCE WAS UNABLE TO PROVIDE DETAILS CONCERNING HIS ACCIDENT OR MEDICAL
 CONDITION. SOURCE'S STORY IS UNBELIEVABLE. HE WAS TOLD THIS IN COMBINATION WITH A
 FEAR DOWN. WE TOLD HIM HE PROBABLY HAD NOT DONE ANYTHING THAT WOULD GET HIM IN REAL
 TROUBLE. WE TOLD HIM WE WERE AFTER ONLY THE "BIG FISH". HE WAS INFORMED HIS
 REFUSAL TO STATE HIS REAL INTENTIONS AND ACTIVITIES IN AF WOULD ONLY LEAD TO HIS
 FURTHER DETENTION.

3. ~~(S//NF)~~ EFFECTIVENESS OF APPROACH: 1 5

4. ~~(S//NF)~~ COOPERATION/KNOWLEDGEABILITY/TRUTHFULNESS: 2
 1, 2, 5

5. ~~(S//NF)~~ RECOMMENDED APPROACH FOR NEXT MEETING: 1 5

1, 5

6. ~~(S//NF)~~ SUMMARY OF INFORMATION RECEIVED: SOURCE'S INTERVIEW RESULTS
 SOURCE STATED HIS REAL NAME AS GIVEN ON HIS PASSPORT IS ADAN RAHMAN ABDI
 ((LATIF)). HE PREFERS TO BE CALLED ABDEL RAHMAN ABDULLAH ABDEL ((GALTI)). HE HAS
 USED THE ((GALTI)) NAME IN ALL PAST INTERVIEWS. LATIF IS A MEMBER OF THE
 ((AC-QUAVER)) TRIBE BASED IN YU. THE LEADER OF THE TRIBE IS ALI ((NAGI)). THE
 TRIBE HAS APPROXIMATELY 100-200 MEMBERS.

7. ~~(S//NF)~~ COLLECTORS COMMENTS: A. 2

2. IN THE KB, HE CLAIMED TO BE FROM BANGLADESH. HE HAS GIVEN A-FAKE
 NAME IN ALL PAST INTERVIEWS. HE CANNOT PROVIDE ANY DETAILED INFORMATION ABOUT
 INDIVIDUALS HE KNEW AT THE HOUSE IN KABUL HE STAYED AT FOR 5 MONTHS. HE CANNOT
 PROVIDE ANY DETAILS ABOUT HIS MEDICAL CONDITIONS OR ANY DOCTORS THAT MAY HAVE
 TREATED HIM AT ANYTIME IN THE PAST.

B. SOURCE CLAIMED TO HE NEVER GRADUATED FROM HIGH SCHOOL. FBI LINGUIST 2 FELT A
 LETTER WRITTEN TO "ALL CHRISTIANS" BY SOURCE WAS WRITTEN BY A WELL EDUCATED
 INDIVIDUAL.

C. SOURCE CLAIMED HE HAD FRACTURED HIS SKULL IN AN AUTOMOBILE ACCIDENT. HE ALSO
 CLAIMED HE HAD SURGERY IN JO TO ALLEVIATE SWELLING IN HIS HEAD. 2

2

HISTORICAL DATA.

8. ~~(u)~~ POC FOR THIS MEMORANDUM IS 2, 3 JTF GTMO.

~~SECRET//NOFORN~~

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Exhibit R9

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~~SECRET//NOFORN~~

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 27

ISN 156 FD-302 (May 29, 2002)

~~SECRET//NOFORN~~

JA 469

~~SECRET//NOFORN~~
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FEDERAL BUREAU OF INVESTIGATION

Date of transcription: 05/29/2002

ADNAN FARHAN ABD AL LATIF, US9BA-00156DP, AKA ABDELRAHMAN ABDULLA ABDEL GALIL was interviewed at Camp Delta. Present during the interview were SA [REDACTED] Naval Criminal Investigative Service (NCIS), SA [REDACTED] FBI Arabic Linguist [REDACTED], FBI [REDACTED].

AL LATIF provided the following information, translated by [REDACTED]: AL LATIF stated that he preferred to use the name ABDELRAHMAN ABDULLA ABDEL GALIL, which means "the slave of God" because the name is "closer to God" than his given name. AL LATIF, is from Ebb, Yemen and is part of the Al Odaien tribe. The leader of Al Odaien is [REDACTED], and the tribe has one hundred to two hundred members. AL LATIF obtained a Yemeni passport approximately two years ago in Hijiri, Yemen. The passport is in the name ADNAN FARHAN ABD AL LATIF. LATIF is his official family name.

AL LATIF attended school at Medressa Al Sha'ab in Yemen for approximately two or three years, and eventually graduated. Medressa Al Sha'ab is a government operated institution, and AL LATIF field of study was "liberal," to include history, math, and general studies.

AL LATIF is proficient at reading and writing Arabic, but does not speak English.

At the beginning of the interview, AL LATIF, complained about bruises, kidney problems and some type of skin problem. [REDACTED] indicated he was seeing the doctors at Camp Delta, and continued with the interview.

AL LATIF stated that when he was fourteen years old, he was in a serious car accident, where the vehicle rolled over and gave him a broken skull, concussion, and broken ear bone, which continues to effect his hearing. AL LATIF was riding in a truck without seats that was used by his friend [REDACTED], for transporting Yemeni grapes.

Following the accident, AL LATIF was unconscious and taken to a Yemeni Hospital in Sanaa, Yemen. After being unconscious for one month, AL LATIF was taken to the Jordanian Islamic Hospital by [REDACTED]. AL LATIF could not recall any of the doctors that treated him, but they drained the blood from his skull, and fixed a large wound in his scalp. In addition to taking him to the hospital, [REDACTED] also paid for his initial treatment in Jordan. Following his initial treatment in Jordan, the doctors stated that he would have to return for another treatment.

Because the next treatment was very expensive, AL LATIF went to a number of charitable organizations, looking for assistance in paying his medical expenses. AL LATIF went to a number of government offices in Yemen seeking assistance. Eventually, AL LATIF met a man from his home town Ebb, Yemen, named [REDACTED] who collected money and controlled a charity called GAMEIAT AL HEKMA. Another charity associated with AL LATIF is GAMEIT AL HEKMA. The man who introduced AL LATIF to [REDACTED] is [REDACTED], who is also from Al Odain, Yemen. [REDACTED]

5/29/02

Guantanamo Bay, Cuba

5/29/02

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

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~~SECRET//NOFORN~~FD-302a (Rev. 10-6-95)
Continuation of FD-302

██████████ Adnan Farhan Abd Al Latif

5/29/02

2

collected money for his charities from all of the Gulf states. ██████████
is married and has two children named ██████████.

AL LATIF indicated that the reason he traveled to Afghanistan
from Yemen was to seek medical treatment for his injured ear. The trip
was sponsored by GAMEIT AL HEKMA and he stayed in the center of Kabul,
Afghanistan.

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~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	

Exhibit 30

ISN 156 CSRT Transcript

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JA 476

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Summarized Sworn Detainee Statement

When asked by the Tribunal President the detainee stated he understood the CSRT process and he did not have any questions.

When the Tribunal President asked if the Detainee had any questions concerning the Tribunal process, the Detainee said "yes."

Tribunal President: What is your question?

Detainee: First, I don't understand the Oath. I didn't give permission for my Personal Representative to take an Oath. Why did he take an Oath when he doesn't know me?

Tribunal President: The Personal Representative gave an Oath that he would do his duty. It had nothing to do with what you were going to do.

Detainee: How can he not have anything to do with it, if he is my Personal Representative?

Tribunal President: His Oath had nothing to do with what you are going to say. His Oath deals with his responsibilities in this Tribunal.

Detainee: His work is a Personal Representative. What other work?

Tribunal President: The only work that matters in this Tribunal is his work as a Personal Representative.

Detainee: Is he doing other work rather than representing me?

Tribunal President: The only thing he is doing in this Tribunal is representing you.

Detainee: I want to know why he took an Oath. Why am I not the one taking the Oath?

Tribunal President: You will have an opportunity to take an Oath at the appropriate time. The oath is to assure...

[Detainee interrupted]: I do not know you. Who are the other people, who are you?

Tribunal President: I am the Tribunal President. The person to my left and my right are Tribunal members. We are here to determine if you have been appropriately classified as an enemy combatant. That is all you need to know about us at this time. Do you have any other questions concerning the process?

Detainee: Yesterday, my Personal Representative told me after I was taken from my room, I would get food and water. I did not receive any food or water. How can I trust or believe my Personal Representative? You can asked the soldier that was

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~~UNCLASSIFIED / FOUO~~

outside.

Tribunal President: The Personal Representative had no control over what the guards do and don't do. What the Personal Representative said was to you was in good faith.

Detainee: The translator was there when the Personal Representative promised I would get food and water.

Tribunal President: We are sorry you did not get food and water. But I cannot change that. Your Personal Representative is here to assist you in this process. Do you have any other questions concerning this process?

Detainee: How long will this take?

Tribunal President: That depends on you.

Detainee: How long will it take before you decide the results of this Tribunal?

Tribunal President: We should have a decision today. It can take quite a while before it is reviewed by the Convening Authority in Washington, D.C. I have no control over the timeline of the process. You will be told the results of the process once it is approved by the Convening Authority in Washington, D.C.

[When the Recorder handed the Tribunal President the Unclassified Summary, the Detainee stated he didn't know what it was. The Recorder explained to the Detainee the Unclassified Summary.]

[When asked by the Tribunal President if the Detainee wanted to make a statement to the Tribunal, the Detainee stated:]

I want to ask my Personal Representative what he did with the information I gave him Yesterday?

Personal Representative: I have the notes with me on what we talked about yesterday.

Detainee: I want to know what you did with them?

Personal Representative: It is here on this paper.

Detainee: I want to hear what he did and what the judge has to say about it. The information that we talked about yesterday was incorrect. If the information from yesterday wasn't corrected, why are we doing this?

Tribunal President: The Personal Representative did not provide this Tribunal panel with any information yesterday. Today is the first time we are going to hear the information. The procedure is done this way so you have the opportunity to hear the information that

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is presented to us. Would you like for the Personal Representative to present the information you gave him yesterday, to us now? Or would you like to present it to us yourself?

[Detainee asked the Personal Representative if he corrected the information he gave him yesterday.]

Personal Representative: I don't know what you mean by corrected. I took notes.

Detainee: Yesterday, you provided me information and I corrected it. I told you I wasn't the person they were referring to. I never went to the places that you said I did. I am not the person this case is based on.

Personal Representative [to Detainee:] I can read the notes to you, if you would like?

Detainee: Clarify the notes, so I know what you did.

Tribunal President [to Detainee]: The Personal Representative didn't do anything with the information you gave him yesterday except record it for his own use. The idea of the Tribunal is to allow you to present the information to us. Then we can do something with it, if we feel it is appropriate.

Detainee: What is the point of having a Personal Representative and having him write things down? I don't need a Personal Representative, you can ask me directly.

Tribunal President: The Personal Representative is here to help you make sure everything you want to say, gets said.

Detainee: The first question, I am not the person they are talking about. The information in the unclassified summary is not about me. How can say someone is me, when it isn't? Yesterday, I gave my Personal Representative the information so he could review and prevent this from happening. He wrote everything down.

Tribunal President: Personal Representative tell us what the Detainee told you yesterday.

[Personal Representative began referring to the Unclassified Summary of the Evidence]

Personal Representative: Item 3.a. (The Detainee is an al Qaida fighter):
He said he did not live in al Qaida. This is a case of mistaken identity.

Item 3.a.1 (In the year 2000, the Detainee reportedly traveled from Yemen to Afghanistan.)

Detainee: That is not correct. First, that is not my name. My name is Agnahn Purhan Abjallil. I am from Orday City in Yemen, not a city in al Qaida. My city is very far from the city of al Qaida. That is not my name and I am not from that city.

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Personal Representative: Item 3.a.1. (In the year 2000, the Detainee reportedly traveled from Yemen to Afghanistan.)

Detainee: I told you, I am not the person. Why do you keep referring me to that person? That is not my name.

Tribunal President: It is the name that has been provided during your interrogations and it is the name you have provided to us in the past.

Detainee: That is why I told my Personal Representative in the interview it was a mistake and he needed to review the information. If that is not my name and not the city I am from.

Tribunal President: al Qaida is not a city. It is the name of an organization.

Detainee: Whether it is a city or an organization, I am not from al Qaida. I am from Orday City.

Tribunal President: Are you from Yemen?

Detainee: Yes, I am from Orday.

Tribunal President: Did you travel from Yemen to Afghanistan?

Detainee: I went from Yemen to Afghanistan.

Tribunal President: Did you do that in the year 2000?

Detainee: I don't know the time.

Tribunal President: Was it the year 1421?

Detainee: I am from a village, I cannot tell time.

Tribunal President: Very good. Did you train at the al-Farouq training camp in Afghanistan?

Detainee: That is incorrect information. You have the wrong person.

Tribunal President: Did you receive training in Afghanistan?

Detainee: No, that is incorrect. I have medical paperwork that will state I went there for treatment. Why didn't my Personal Representative present the information in my medical records?

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Tribunal President: Now is the time for information to be presented to the Tribunal, not before.

Detainee: My medical records can verify this information. I gave this information three years ago. The information you are presenting is based on another person. You haven't came up with the right information about me.

Tribunal President: Now is the time for you to tell us what you believe is the correct information about yourself.

Detainee: All the information is in my files.

Tribunal President: We will read it when we read the files later. We are giving you the opportunity to tell us your story now, if you wish.

Detainee: That is what I am doing. I gave you the information. The name is not correct. I told you I went there for medical treatment and there is official paperwork that will verify that. (Inaudible) How can this be possible? I am suppose to review the information, so I can tell you correctly.

Tribunal President: Now is the time for you to tell us why you were in Afghanistan. You told us it was for medical treatment.

Detainee: Yes, medical treatment. That is why I told my Personal Representative the process would be much easier if he would contact the Ministry of Health and get the records regarding my treatment. You would then have all the information you needed. The Tribunal has all the equipment needed to get in contact with the people that can provide you with my information. You can fax Jordan or the hospital and they can send you the information that will show you the truth.

Tribunal President: Your files are in Jordan?

Detainee: Yes, (inaudible) I was supposed to return to that hospital. You can memorize the process. You have my name and address.

[The President asked the translator to have the Detainee refrain from talking while the she is talking, because the Tribunal cannot understand him.]

Tribunal President: You went to a hospital in Jordan. What was the name of the hospital in Jordan?

Detainee: It was not a hospital.

Tribunal President: What was its name?

Detainee: The Islam Jordanian Hospital.

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~~UNCLASSIFIED / FOUO~~

Tribunal President: In what city?

Detainee: Oman.

Tribunal President: From there you went to Afghanistan?

Detainee: Why is my Personal Representative not helping me, I already gave him that information? He was provided the information in Arabic and English.

[Personal Representative to Tribunal]: The Detainee claims he went for medical treatment in Pakistan, and is not a fighter.

Detainee: Because I am poor and can't afford treatment, I went for humanitarian aid.

Personal Representative: The Detainee was diagnosed in Jordan but the cost was too expensive. He decided to go to Pakistan where the treatment was cheaper.

Detainee: Yes

Personal Representative: He started out in Yemen. He was diagnosed in Jordan. He went back for a short time to Yemen before going to Pakistan.

Detainee: Yes, correct.

Personal Representative: The doctor that was treating him in Pakistan moved several times; one of those times to Afghanistan.

Detainee: It was too expensive for me to get treatment. The person that could treat me for a reasonable price was in Afghanistan.

[Tribunal President to Personal Representative:] What else did the Detainee tell you?

Personal Representative: The clinic in Yemen, where he got treatment, was Al Jamuri in the town of Sanah from 1995 to 1996.

Detainee: Yes

Personal Representative: Item 3.a.2 (The Detainee reportedly received training at the al-Farouq training camp):

Detainee: I was going to a hospital for treatment. How could I be going for training?

Personal Representative: Item 3.a.2 the Detainee did not directly answer.

Item 3.b.1. (In April 2001, the detainee reportedly returned to Afghanistan): The

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Enclosure (3)
Page 6 of 9

~~UNCLASSIFIED / FOUO~~

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~~UNCLASSIFIED / FOUO~~

Detainee answered he did not live in al Qaida.

Detainee: I told you I lived in Orday. I am not from al Qaida.

Tribunal President: We understand.

Personal Representative: Item 3.b.2 (The Detainee reportedly went to the front lines in Kabul): The Detainee stated it was a case of mistaken identity.

Tribunal President to Personal Representative: Was there anything else?

Personal Representative: No, Sir.

Detainee: Is it clear now?

Tribunal President: Yes, your story is clear to us.

Detainee: People told me before my story was clear, but they never went and got my files. The problem could have ended quite easily.

[When asked by the Tribunal President if the Personal Representative had any questions for the Detainee, the Personal Representative stated no.]

Detainee: Why have I been here for three years? Why have I been away from my home and family for three years?

Tribunal President: That is what we are trying to determine today.

Detainee: Why did you come after three years? Why wasn't it done much sooner after my arrest?

Tribunal President: I cannot answer to what has happened in the past. I was asked to come here now, and I came.

Detainee: Why am I not allowed freedom here?

Tribunal President: Because you have been classified as an enemy combatant.

Detainee: How can they classify me an enemy combatant? You don't have the right documents.

Tribunal President: That is what we are here to determine.

Detainee: For three years I haven't been treated very well because of wrong information. Would you let that happen to you? What will be your position if you find out what happened to me was based on wrong information and I am innocent?

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Enclosure (3)
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~~UNCLASSIFIED / FOUO~~

JA 483

~~UNCLASSIFIED / FOUO~~

Tribunal President: Your current conduct is unacceptable. If you keep interrupting the proceedings, you will be removed and the hearing will continue without you.

Summarized Answers in Response to Questions by the Recorder:

Q. What is your full name?

A. I told you it is Agnahn Purhan Abjallil.

Q. When you were in Afghanistan and going to the hospital, where did you live?

A. Abdul Okmahn Station.

Q. I don't understand what you mean by station.

A. It is a school.

Q. Did you work in Afghanistan?

A. Going back to the first question, I went there for treatment. How do you think I was going to work?

Q. Did you ever go to al-Farouq, even for good reasons?

A. I was at the school receiving shots for my treatment. I left and then came back to the school. When I was in Yemen, I was given no hope. I was told I could receive treatment in Pakistan. I went with the person who was going to treat me, but he had other business in Pakistan. I was told to wait at the school until he was finished his business, then he would return and finish my treatment.

Summarized Answers in Response to Questions by the Tribunal Members:

Q. What were you being treated for?

A. I had a stroke. I lost my vision and hearing in one ear. My doctor's name and the treatment I received is all in my files.

Q. Why was the treatment done at a school?

A. The person who treated me works for humanitarian aid. I could not afford to be treated at a hospital. The aid worker told me that after he was done working, he would give me my treatment. After my treatment, he said he would take me back home. He was doing me a favor. He treated me for five days.

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~~UNCLASSIFIED//FOUO~~

Q. What kind of school was it?

A. They taught students the Koran.

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

A. No, Sir.

AUTHENTICATION

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



Tribunal President

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Enclosure (3)
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
ADNAN FARHAN ABD AL LATIF)	
ALA'DINI (ISN 156))	
)	
Petitioner,)	
)	
v.	)	Civil Action No. 04-cv-1254 (HHK)
)	
BARACK H. OBAMA,)	
President of the United States, <i>et al.</i> ,)	
)	
Respondents.)	
_____)	

Exhibit 98

Declaration of Amie Draves (May 25, 2010)

~~SECRET//NOFORN~~

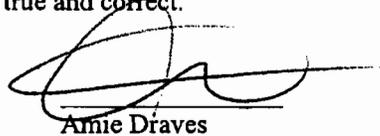
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4. Later in the recording, at approximately 41 minutes and 5 seconds, Adnan again says words that sound like his name, "Adnan Farhan Abdul Latif," not "Agnahn Purhan Abjallil." Approximately ten seconds later, the translator clearly states his name as "Adnan Farhan Abdul Latif." Immediately after so stating, the CSRT's Recorder repeats the word "Abdul," followed by the translator again saying "Latif," and the Recorder repeating the word "Latif."

I declare under penalty of perjury that the foregoing is true and correct.



Amie Draves

Executed in Arlington, Virginia
on May 25, 2010

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ADNAN FARHAN ABD AL LATIF)
ALA'DINI (ISN 156))

Petitioner,)

v.)

Civil Action No. 04-cv-1254 (HHK)

BARACK H. OBAMA,)
President of the United States, *et al.*,)

Respondents.)

Exhibit 104

Declaration of Farid Botros (May 25, 2010)

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

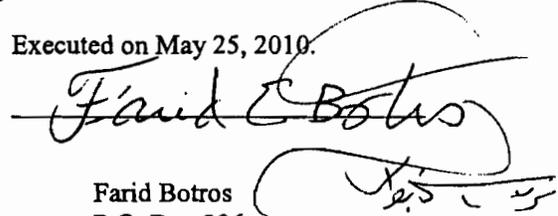
~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

6. The Arabic spoken by the detainee on the recording around the 24-minute mark does not include the Arabic words for the following sentences: "That is not my name. My name is Adnan Farhan Abdul Latif."

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 25, 2010.

A handwritten signature in cursive script that reads "Farid Botros". To the right of the signature, there are some handwritten Arabic characters.

Farid Botros
P.O. Box 396
New York, NY 10008
(718) 259-3292

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Exhibit A

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~~SECRET//NOFORN~~**FARID E. BOTROS**

ARABIC INTERPRETER, INSTRUCTOR, VOICE-OVERS AND ROLE PLAYER

P.O. Box 396, Church Street Station, New York, NY 10008**Tel: (718) 259-3292 Pager: (917) 616-0377****E-mail: kathy8675@aol.com****Languages:**

Native Arabic Speaker, Fluent in English with knowledge of French

Objective:

To utilize my Arabic and English communication skills in Depositions, Educational Sessions and Training, Examinations before Trial, Court and Escort Interpreting, Consular and Diplomatic Interpreting, Proofreading and Editing, and Telephonic Interpreting and Monitoring

Fields of Work:

Management and Business Administration, Insurance and Personal Injury, Law Enforcement and Criminal Investigation, Banking and Finance, Accounting and Auditing, Law and Contracts, Travel and Tourism, Immigration and Refugee Proceedings, and Voice-overs and Dubbing

Experience:**ARABIC LANGUAGE INSTRUCTOR - Independent Contractor** 1995 - Present

Naval Amphibious Base, Little Creek, VA

Presented and taught a comprehensive curriculum for High Tactical Arabic Language Training to U.S. Navy Seals

Aberdeen Proving Ground, Aberdeen, MD

Assisted instructor in Training Program for Kuwaiti National Guard

Berlitz Language Center, New York, NY

Taught Arabic and evaluated student performance

New York University, New York, NY

Appointed as an adjunct professor to teach Colloquial Arabic, Egyptian Dialect

CERTIFIED COURT INTERPRETER - Arabic

1995 - Present

New York State Unified Court System

Listed in the National Federal Court Arabic Interpreters Database

LANGUAGE CONSULTANT - Independent contractor

1995 - Present

National and International Law Firms

Foreign Embassies and Consulates

ABC, CBS, FOX and NBC News

United States Immigration and Naturalization Service

United States Drug Enforcement Administration

United States Department of Defense

United States Attorney's Office

United States District Court

New York City District Attorney

New York City Corporation Council

New York State Attorney General

The Legal Aid Society

The Lionbridge Technologies

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VOLUNTEER ACTIVITY - Escort Interpreter 1995 - Present
Big Apple Greeter, New York, NY

SENIOR PROJECT COORDINATOR 1977 - 1995
New York City Department of Transportation

Maintained liaison with the Mayor's Office of Management and Budget and the New York State Financial Control Board, regarding capital and expense budget preparation and execution
Assigned tasks, established standards, trained staff and evaluated work performance

ASSISTANT PROJECT COORDINATOR 1973 - 1977
New York City Department of Parks and Recreation

Coordinated and expedited capital projects from inception to completion

ACCOUNTANT AND AUDITOR 1969 - 1973
New York City Housing and Development Administration

Established and enforced accounting control for revenue and expenditure of public funds
Directed government accounting, with disbursement signatory authority

Clearances:

United States Department of Justice:
Drug Enforcement Administration
Immigration and Naturalization Service
United States Department of Defense
Metropolitan Correctional Center, New York, NY
Metropolitan Detention Center, Brooklyn, NY

Accreditation:

Rated by the American Council on the Teaching of Foreign Languages as Superior - Arabic
Passed the CIA Arabic into English Translation Examination
Passed the Olympic Games Examination for Escort Interpreting Services
Passed the AT&T Language Line Examination
Passed the State of New York Unified Court System Arabic Language Examination
Passed the Berlitz Arabic Language Interpretation Examination

Education:

Alexandria University, School of Business, Egypt
Bachelor's Degree in Accounting and Business Administration

Professional Affiliations:

American Translators Association, Associate Member
The New York Circle of Translators, Member
The Translators and Interpreters Guild, Member

Awards:

Granted the New York City Outstanding Employee Award for Integrity and Quality

Interest:

Horseback riding, swimming and traveling

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