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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:
GUANTANAMO BAY
DETAINEE LITIGATION

)
) Misc. No. 08-442 (TFH)

)
) Civil Action No.
) 05-CV-02104 (RBW)
)
)
)

AMENDED FACTUAL RETURN

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Respondents hereby submit, as explained herein, an amended factual return pertaining to the petitioner identified as the subject of the attached Narrative. This amended return is intended to supersede the material contained in any previously filed return, except for the fact that petitioner was previously determined by a Combatant Status Review Tribunal to be an enemy combatant.

This amended return sets forth factual bases¹ supporting petitioner's lawful, ongoing detention pursuant to the Authorization for the Use of Military Force and the President's power as Commander in Chief.

Dated: September 26, 2008

Respectfully submitted,

GREGORY G. KATSAS
Assistant Attorney General

JOHN C. O'QUINN
Deputy Assistant Attorney General

¹ Respondents reserve the right to seek leave to further supplement the record with additional factual bases supporting petitioner's detention, as necessary.

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DECLARATION OF REAR ADMIRAL DAVID THOMAS

Declaration of Rear Admiral David M. Thomas, Jr.

Pursuant to 28 U.S.C. § 1746, I, David M. Thomas, Jr., hereby declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge, information, and belief, the following is true, accurate, and correct:

I am a Rear Admiral in the United States Navy, with 31 years of active duty service. I currently serve as Commander, Joint Task Force-Guantanamo (JTF-GTMO), at Guantanamo Bay, Cuba. I have held this position since 27 May 2008. As such, I am directly responsible for the successful execution of the JTF-GTMO mission to conduct detention and interrogation operations in support of the Global War on Terrorism, coordinate and implement detainee screening operations, and support law enforcement and war crimes investigations.

The attached narrative and supporting materials from files of the Department of Defense or other government agencies contain information used by the Department of Defense to establish the status of the individual who is the subject of the narrative as an enemy combatant and to substantiate their detention as an enemy combatant at Guantanamo Bay, Cuba.

Dated:



DAVID M. THOMAS, JR.
Rear Admiral, U.S. Navy

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

OTHMAN ALI MOHAMMED
AL SHAMRANY,

Petitioners,

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

Civil Action No. 05-CV-02104 (RBW)

NARRATIVE FOR PETITIONER OTHMAN ALI MOHAMMED
AL SHAMRANY, ISN 171

INTRODUCTION

Othman Ali Mohammed al Shamrany (Alahdal) is a citizen of Yemen who fought against United States and coalition forces with the Taliban and al-Qaida, and is an enemy of the United States. Alahdal traveled to Afghanistan and stayed in numerous guesthouses, some with ties to Usama bin Laden and al-Qaida. He fought on the front lines in Bagram, retreated to the mountains of Tora Bora, and was captured with an AK-47 while fleeing into Pakistan. Consequently, for the reasons stated below, petitioner is lawfully subject to detention pursuant to, *inter alia*, the President's power as Commander in Chief and the Authorization for the Use of Military Force.

The factual basis for petitioner's detention is supported by numerous source documents

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cited herein and attached hereto. These documents include interviews with him and others conducted by law enforcement and intelligence personnel, as well as information from other sources. These reports and intelligence products are routinely relied upon by military or intelligence personnel in making decisions to act upon threats to our national security.

Declaration of ³ [REDACTED] "Background Declaration -- Intelligence 101" (Sept. 19, 2008); Declaration of Robert H. Holmes, "Use of Intelligence Products in the Targeting and Operation Cycles in Operation Enduring Freedom" (Aug. 22, 2008).

As with all detained enemy combatants at Guantanamo Bay, Cuba, Alahdal has been assigned an Internment Serial Number or ISN. The ISN is an administrative code assigned to military detainees. Alahdal's full ISN is US9YM-000171DP, in which the number "171" is Alahdal's unique identifier and the "YM" designation indicates that he is a national of Yemen. Source documents attached as Exhibits to this Declaration may refer to Alahdal by name, full ISN, or various short forms, such as "YM-000171" or "ISN 171."

Othman Ali Mohammed al Shamrany was known as Abu Bakr Ibn Ali Muhammad Alahdal, Abu Bakr Ali Muhammad Alahdal, Abu Bakr Mohammad Alahdal, Abu Bakr, Abu Bakr Alahdal, Abu Bakr Ali Mohammed (al-Ahdel), Abu Bakur Ali Muhammad (al-Ahdal), and Othman Ali Muhammad. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 FD-302 (Oct. 10, 2002); ISN 252 FM40 (Jan. 5, 2005); ISN 171 MFR (Mar. 31, 2002); ISN 171 MFR (June 22, 2003). It is common for those engaged in terrorist activities to use an alias, commonly known in Arabic as

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a *kunya*. Alahdal's *kunyas* included Abu Mohammad, Ali Mohammed, Ali, Abu Bakir, and Abu Bakr al-Shamrani. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 FD-302 (June 3, 2002); ISN 171 FM40 (Nov. 13, 2003); ISN 252 FM40 (Jan. 5, 2005); IIR 6 034 0221 02. *See* Declaration of

³ [REDACTED] "Background Declaration – Names, Aliases, Kunyas and Variants" (Sept. 19, 2008).

The following narrative and attached materials set forth the factual bases supporting petitioner's lawful detention. This narrative is not intended to be a complete explication of the information in support of petitioner's detention in those documents.

GENERAL BACKGROUND

1. Al-Qaida ("the Base") was founded by Usama bin Laden and others in or about 1989 for the purpose of opposing certain governments and officials with force and violence. National Comm'n on Terrorist Attacks upon the United States, The 9/11 Commission Report 56 (2004) (9/11 Commission Report).

2. Usama bin Laden is recognized as the emir (prince or leader) of al-Qaida. *Id.*

3. A purpose or goal of al-Qaida, as stated by Usama bin Laden and other al-Qaida leaders is to support violent attacks against property and nationals (both military and civilian) of the United States and other countries. *Id.* at 59-61.

4. Between 1989 and 2001, al-Qaida established training camps, guesthouses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and

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supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries. *Id.* at 64-67.

5. In 1996, Usama bin Laden issued a public "Declaration of Jihad Against the Americans." This declaration called for the murder of U.S. military personnel serving on the Arabian Peninsula. *Id.* at 48.

6. In February 1998, Usama bin Laden and Ayman al Zawahiri (bin Laden's deputy) issued a fatwa (purported religious ruling) requiring all Muslims able to do so to kill Americans -- whether civilian or military -- anywhere in the world. *Id.* at 47.

7. Since 1989, members and associates of al-Qaida, known and unknown, have carried out numerous terrorist attacks, including, but not limited to, the attacks against the American embassies in Kenya and Tanzania in August 1998, which killed approximately 250 people, *id.* at 68-70; the attack against the U.S.S. Cole in October 2000, which killed 17 United States Navy sailors, *id.* at 190-93; and the attacks on the United States on September 11, 2001, which killed approximately 3,000 people. *Id. passim.*

8. The Taliban (students of Islamic knowledge) is an Islamic fundamentalist group that was formed in Afghanistan in 1994. The Taliban in Afghanistan, available at www.cfr.org/publication/10551. After two years of violent conflict that included the capture of Kabul, Afghanistan's capital, the Taliban took control of Afghanistan's national government in 1996. 9/11 Commission Report at 65. Although it was never formally recognized by the United

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States, *id.* at 124, the Taliban controlled Afghanistan's national government from 1996 until the United States-led military campaign ousted the Taliban from power in 2001. *Id.* at 337-38. During the period in which the Taliban controlled Afghanistan's national government, it provided safe harbor and support to al-Qaida and Usama bin Laden. *Id.* at 64-67.

9. On September 18, 2001, following the attacks on the United States on September 11, 2001, Congress adopted the Authorization for the Use of Military Force. 115 Stat. 224 (2001). Recognizing that the attacks of September 11, 2001 "render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens at home and abroad," Congress authorized the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the 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." Within weeks, United States military forces were deployed in Afghanistan. 9/11 Commission Report at 337.

10. The United States led the initial aerial bombing campaign of Afghanistan, with ground forces composed of United States forces and Afghanistan militia opposed to the Taliban, including the Northern Alliance. The Northern Alliance is an association of Afghan groups opposed to the Taliban. The Northern Alliance has assisted the United States in its military campaign in Afghanistan to defeat al-Qaida and the Taliban. *Id.* at 330-34; 336-38.

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11. In December 2001, the United States-led military campaign removed the Taliban from control of Afghanistan's national government. *Id.* at 337-38. Taliban and al-Qaida forces, however, have continued to operate in Afghanistan and attack coalition forces. Currently, two major military operations are underway in Afghanistan. First, Operation Enduring Freedom (OEF) is a multinational coalition military operation, led by the United States, initiated in October 2001 to counter terrorism and bring security to Afghanistan in collaboration with Afghan forces. See www.state.gov/r/pa/prs/ps/2006/60083.htm. OEF operations led to the collapse of the Taliban government and helped bring security and stability to Afghanistan. *Id.* OEF involves troops from over 20 nations, including approximately 19,000 United States forces and 3,000 non-United States troops. *Id.* Second, the International Security Assistance Force (ISAF) is a United Nations-mandated international coalition operating under the command of the North Atlantic Treaty Organization (NATO). See www.nato.int/isaf/index.html. ISAF was established in 2002 with the goal of creating conditions for stabilization and reconstruction in Afghanistan. ISAF is comprised of approximately 50,000 troops from 40 countries. *Id.*

DESIGNATION OF TERRORIST ORGANIZATIONS

12. Specially Designated Global Terrorists. The President has the authority to name certain organizations or individuals as Specially Designated Global Terrorists pursuant to the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1701 *et seq.* See e.g., Exec. Order 13224, 66 Fed. Reg. 49079, 49082 (Sept. 23, 2001); see also 66 Fed. Reg. 54404,

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54405 (Oct. 26, 2001). Such a designation of an organization is premised on a link to terrorism, which is defined as an activity that "involves a violent act or an act dangerous to human life, property, or infrastructure(,) and appears to be intended to (A) intimidate or coerce a civilian population, (B) influence the policy of a government by intimidation or coercion, or (C) affect the conduct of a government by mass destruction, assassination, kidnapping or hostage-taking." Exec. Order 13224 § 3(d), 66 Fed. Reg. at 49080. Organizations so designated can be found at the following website: <http://www.treasury.gov/offices/enforcement/ofac/programs/terrorism/terror/terror.pdf>.

ALAHDAL WENT TO AFGHANISTAN TO SUPPORT THE TALIBAN

13. Alahdal comes from Al Hudaydah, Yemen, where his father is a wealthy land owner. He belongs to the Beit Al-Ahdal tribe. ISN 171 MFR (June 1, 2002). After high school, Alahdal served as teacher of the Koran in a religious school in Bayt al Ahdal, where his family had a second home. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (July 3, 2003).

14. After Alahdal heard about the Taliban's destruction of the Buddhist statues in Bamiyan, Afghanistan in March 2001, he decided to visit Afghanistan to visit the site. According to Alahdal, he respected the Taliban for having destroyed statues that were an affront to Islam. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (July 3, 2003).

15. Alahdal claims that he did not intend to fight when he left for Afghanistan, even though he was aware that there was a war going on between the Taliban and the Northern

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Alliance. ISN 171 MFR (July 3, 2003). He said that he did not tell his family or his coworkers about his plan to go to Afghanistan during summer break because he expected to return in time for school. ISN 171 MFR (July 3, 2003).

16. Alahdal says he did not respond to and had no knowledge of any fatwa calling on Muslims to travel to Afghanistan. He claims that the local mosques he attended collected donations for charity and that he had no knowledge of any collected funds being used to support jihad. ISN 171 FD-302 (Apr. 25, 2002).

17. Alahdal's trip was arranged by a Yemeni named Abu Jaffar also known as Abu (Yaqoob), who was well known in Hudaydah as a jihadist who had fought in Afghanistan. ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02. Alahdal approached [REDACTED] and asked for assistance in traveling to Afghanistan. ISN 171 MFR (July 3, 2003); ISN 171 FD-302 (Apr. 25, 2002). Alahdal gave [REDACTED] money, pictures of himself, and a completed passport application, and [REDACTED] subsequently provided him with a passport, plane tickets, and American dollars. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002); ISN 171 FD-302 (Apr. 25, 2002). [REDACTED] also furnished Alahdal with a travel route to Afghanistan. ISN 171 FD-302 (Apr. 25, 2002). Abu Jaffar told Alahdal to use only U.S. dollars wherever possible, IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002), and advised him to respond to any inquiries about his travel by saying that he was going to Afghanistan for a visit. ISN 171 FD-302 (Apr. 25, 2002). [REDACTED] did not provide Alahdal with any specific contact names, but assured Alahdal that he

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would be safe with the Taliban. ISN 171 FD-302 (Apr. 25, 2002). Alahdal was not given any letter of recommendation or sponsorship for his trip, but he was instructed by Abu Jaffar to report to the Taliban office in Quetta. ISN 171 MFR (July 8, 2003).

18. Alahdal traveled to Sanaa, Yemen by taxi, and then flew to Karachi, Pakistan, around April or May 2001, on a round trip ticket that allowed 6 months for the return flight. ISN 171 MFR (July 3, 2003); ISN 171 FD-302 (Oct. 10, 2002). He claims that he spent three weeks in Karachi with Yemeni businessmen that he met on the plane from Sanaa. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (July 3, 2003); ISN 171 MFR (July 8, 2003). He claims that he had no travel itinerary for his trip and stayed in Karachi until his travel companions departed for their final destinations. ISN 171 FD-302 (Oct. 10, 2002).

19. Next Alahdal took a bus to Quetta, Pakistan and, per [REDACTED] instructions, went to the Daftar Taliban guesthouse. ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02; ISN 171 FD-302 (Apr. 25, 2002). An Afghan Taliban official named [REDACTED] greeted him upon his arrival to the guesthouse. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02. Most of the residents at the guesthouse were young men en route to or from Afghanistan. ISN 171 FD-302 (Apr. 25, 2002); *see* Declaration of [REDACTED]³ "Guesthouses" (Sept. 19, 2008) (describing the Taliban and al-Qaida guesthouses as way stations for frontline fighters). Alahdal stayed at the guesthouse without charge for four days. Alahdal told [REDACTED] that he wished to go to Afghanistan, and [REDACTED] arranged the trip. ISN 171 FD-302 (Apr. 25,

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2002).

20. On the fourth morning, [REDACTED] instructed Alahdal to dress in Afghan clothing and turban and the two rode with four other Afghans by taxi to Kandahar, Afghanistan. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (July 15, 2003). When the taxi approached the Pakistan border, he was instructed to leave the taxi with an Afghan guide and walk around the border crossing on foot to circumvent the border and the Pakistani police. The taxi picked him and his guide up on the other side of the border. Thus, Alahdal did not use his passport to enter Afghanistan, although he had it with him at the time. ISN 171 FD-302 (Apr. 25, 2002).

21. Upon arrival in Kandahar, the taxi dropped him off at a guesthouse managed by [REDACTED] [REDACTED] ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02. The guests at the house were mostly Arabs. ISN 171 FD-302 (Apr. 25, 2002); IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). Alahdal told [REDACTED] that he was en route to Kabul. ISN 171 FD-302 (Apr. 25, 2002). Abu Ahmed instructed Alahdal to choose an alias, also known as a *kunya*. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002); see Declaration of [REDACTED]³ [REDACTED]³ "Background Declaration – Names, Aliases, Kunyas and Variants" (Sept. 19, 2008).

22. On the fourth day in the Kandahar guesthouse, Alahdal boarded a bus for Kabul and was dropped off at a guesthouse run by [REDACTED] also known as [REDACTED] ISN 171 FD-302 (Apr. 25, 2002); IIR 6 034 0221 02. There were about twelve guests at the house, all of

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whom were Arabs from Yemen, Morocco and the Gulf States. Some of them were traveling to Afghanistan for jihad, while others claimed they were only visiting the country. ISN 171 FD-302 (Apr. 25, 2002). Alahdal initially stayed at this Kabul guesthouse for a week, but returned there several times, with the final stay lasting about two months. ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02.

23. After about a week in Kabul, Alahdal went to Jalalabad by car with several other Arabs, ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02, and stayed in a large gated complex named Najem Jihad. ISN 171 FD-302 (Apr. 25, 2002). [REDACTED] greeted them at the gate. Alahdal claims that, while in Jalalabad, he rested, read books, and took a sightseeing tour. He said that he did not observe Taliban members and that the group did not speak among themselves about the Taliban or al-Qaida. He also stated that the group did not observe any training camps in Najem Jihad or elsewhere in Jalalabad. ISN 171 FD-302 (Apr. 25, 2002).

24. Three different sources have identified the Najem Jihad complex as owned or frequented by Usama bin Laden. A 36-year old Tunisian national who fought with al-Qaida in Tora Bora reported that Nejim al-Jihad was an al-Qaida housing compound owned by Usama bin Laden, approximately 15 kilometers west of Jalalabad. IIR 2 340 6473 02.

25. Omar Ahmed Khdar, ISN 766, the son of a top al-Qaida official, said that Nazim Jihad was Usama bin Laden's compound in Jalalabad, and that he met bin Laden there in 1996. He was able to verify bin Laden's children's names and their locations against a list derived from

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intelligence sources. IIR 6 034 0264 03.

26. A 22-year old Yemeni national who lived in Afghanistan for two years and trained at al-Farouq, said that he observed Usama bin Laden visit the Najm al Jihad guesthouse during the first week of the U.S. bombing campaign in Afghanistan. IIR 2 340 6828 02.

27. During his trip to Jalalabad, Alahdal decided that he wanted to see the Taliban. The manager of the Arab guesthouse in Kabul, [REDACTED] told him the best place to see and learn about the Taliban was at the front. ISN 171 FD-302 (Apr. 25, 2002). Upon his return from Jalalabad to the Kabul guesthouse, Alahdal asked Abu Muath if he could go see the front line. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). At Alahdal's request, [REDACTED] arranged for him to travel to the front. Alahdal knew that a war was taking place in Afghanistan, that he would be issued a weapon by the Taliban, and that he would be expected to fight. He stated that he viewed the Northern Alliance as the enemy and expected to use the weapon to defend himself. ISN 171 FD-302 (Apr. 25, 2002).

ALAHAL FOUGHT AGAINST U.S. FORCES AND THOSE OF ITS ALLIES

28. Alahdal claims he has never met Usama bin Laden nor encountered anyone who had. ISN 171 FD-302 (Apr. 25, 2002). He denies any affiliation with the Taliban or al-Qaida. ISN 171 FM40 (Nov. 13, 2003). Nevertheless, after approximately five days, Mullah Abdul-Ahad, a Taliban commander, picked up Alahdal from the Kabul guesthouse and took him to Bagram. Alahdal left a large suitcase in Kabul containing, among other things, his passport,

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Yemeni identification card, and \$400 in U.S. currency. Alahdal brought with him a smaller bag with his Koran, towel and toiletries. During the trip, Alahdal decided to use the alias Abu Mohammad. He arrived in Bagram later that day and stayed at a house known as the Back Line Station, which was situated behind the front. Alahdal described the house as damaged by bombing, surrounded by a wall, and guarded. Soldiers returning from the front lines came to rest at the Back Line Station before returning to the front line. ISN 171 FD-302 (Apr. 25, 2002).

29. He went to the Bagram front in approximately July 2001. He claims not much was happening and the opposing sides were even talking to each other casually over the radio. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). Alahdal insisted to [REDACTED] that he wanted to go to the front line and was told at first to wait and rest. He was assigned to two-hour guard duty shifts at night. After a few days, however, Alahdal was told that he would soon go to the front lines. He received an AK-47 with three magazines as well as a vest with two grenades. Alahdal claims he was already proficient with the AK-47, having been trained by his father and brothers.¹ He claims he was not trained at any camps and has no knowledge of the location of any training camps. He simply shot several rounds of his AK-47 while at the back line to familiarize himself with the weapon. ISN 171 FD-302 (Apr. 25, 2002).

30. Alahdal spent three weeks at the front line, with occasional visits to the back line

¹ Alahdal later told investigators that he received training on the Kalashnikov in Yemen from his 86-year old grandmother. ISN 171 FM40 (Nov. 13, 2003).

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to shower and refresh himself. Approximately twelve to fifteen soldiers served in Alahdal's unit, including two Iraqi Kurds, a Saudi Arabian, and several Arabs from Saudi Arabia, Yemen, Morocco, and Pakistan.² Alahdal explained that all members of his unit were in Afghanistan to fight with the Taliban against the Northern Alliance. The members of the unit would communicate with each other through the unit leader, [REDACTED] who knew classic Arabic and a few other Arabic words. Alahdal described the mission of his unit as guarding and defending the area from the enemy. ISN 171 FD-302 (Apr. 25, 2002). He confirmed that he took up arms and was present on the Taliban front line at Bagram, Afghanistan. ISN 171 FD-302 (Oct. 10, 2002).

31. Yasin Muhammad Salih Mazzeeb Basardah ISN 252,³ identified Alahdal from his photograph as someone who helped organize and distribute food to various fighters and was in charge of a group of fighters in Bagram. He thought Alahdal was Saudi. ISN 252 FM40 (Jan. 5, 2005).

32. After about three weeks or a month at the front line, Alahdal contracted malaria

² On other occasions, Alahdal stated that his unit was comprised of both Arabs and Afghans. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002); IIR 2 340 6159 02.

³ The author of a Department of Defense Criminal Investigation Task Force (DOD/CITF) memorandum commented, in describing Basardah's (ISN 252) statement with respect to another detainee, that his credibility was in question with interrogators. DOD/CITF Memorandum (May 14, 2004). A more recent assessment by the Department of Defense stated that Basardah (ISN 252) "has proved to be a reliable source of information." DOD Analytical Support Package for ISN 252.

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and another undisclosed disease. ISN 171 FD-302 (Apr. 25, 2002); IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). He was sent back to a hospital in Kabul. ISN 171 FD-302 (Apr. 25, 2002); IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). After a few days, Alahdal went back to [REDACTED] guesthouse,⁴ where he spent between one and two months recuperating from his illness. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (Mar. 31, 2002).

33. While in Kabul recovering from his illness, he learned about the September 11 attacks. ISN 171 FD-302 (Apr. 25, 2002); ISN 171 MFR (July 3, 2003). He claimed to have had no prior knowledge of the attacks and said that he did not know anyone who claimed to have such knowledge. ISN 171 FD-302 (Apr. 25, 2002). Alahdal subsequently acknowledged that he witnessed some celebrations as a result of the attack. He told investigators that he heard about the September 11 attacks during his two month stay at a Kabul hospital. He described his personal reaction as disbelief, and said that he was sad for the civilians who died but felt that the Pentagon was a legitimate military target. ISN 171 MFR (July 3, 2003).

34. Al-Qaida operative [REDACTED] identified Alahdal from a photograph as Abu Bakr, a Yemeni who was in Kabul and Bagram at the front lines. ISN [REDACTED] told investigators that he wrote up a will and gave it to [REDACTED] at the Kart Barwan guesthouse in Kabul. ISN [REDACTED] FD-302 (Feb. 20, 2002). Karti Barwan is

⁴ In one account, Alahdal claimed he spent this time recuperating at a hospital in Kabul. ISN 171 MFR (July 3, 2003).

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another name for the Kabul guesthouse run by Abu Muath. IIR 6 034 0051 05. Abu Mohammed is one of Alahdal's *kunyas*. ISN 171 FD-302 (Apr. 25, 2002).

35. At around the same time that Taliban leader Mullah Omar told all Arabs to leave Kabul, Afghanistan, IIR 2 340 6384 02, Alahdal said [REDACTED] told him to return to the front lines because it would not be safe in Kabul once the United States started bombing. ISN 171 FD-302 (Apr. 25, 2002).

36. In another interview, Alahdal said he asked to return to the front because he was bored. ISN 171 MFR (Mar. 31, 2002).

37. Taliban Commander [REDACTED] transported him back to Bagram, where he remained for approximately one month, primarily at the back line. He claims that he was aware that the United States was bombing Afghanistan, but still considered the Northern Alliance his enemy. He admits that he saw American planes, but claims that neither he nor the others fired at the American planes. His unit was instructed to remain in the trenches if their area was bombed by the United States. ISN 171 FD-302 (Apr. 25, 2002).

38. Alahdal and several companions left the Bagram line for Jalalabad because the enemy forces of General Massoud were approaching their position. ISN 171 MFR (Mar. 31, 2002); IIR 6 034 0221 02; ISN 171 FD-302 (Apr. 25, 2002). In Jalalabad, they were directed by fellow Taliban to the Najim Jihad area, where they were given food and shelter in a house operated by Abu Ahmed. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002). Approximately

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December 20, 2001, they made their way from Jalalabad through the mountains to Pakistan, receiving support from Muslims along the way. IIR 6 034 0221 02; ISN 171 MFR (Mar. 31, 2002).

39. At this time, United States and Afghan forces were battling Usama bin Laden and his fighters in Tora Bora. The United States had begun its military campaign in Afghanistan against al-Qaida and the Taliban in early October 2001. By mid-November 2001, Usama bin Laden and his entourage of al-Qaida operatives retreated to a mountainous area of Afghanistan known as Tora Bora, where they engaged United States and allied forces that December. 9/11 Commission Report at 337-38; see also Declaration of ³ [REDACTED] "Tora Bora" (Sept. 19, 2008). Yasin Muhammad Salih Mazeab Basardah, ISN 252, identified Alahdal as a fighter at Tora Bora. ISN 252 FM40 (Sept. 26, 2006). Alahdal was captured by ² [REDACTED] authorities with other fighters escaping the battle at Tora Bora. A document containing a list of Taliban and al-Qaida fighters who were captured crossing the border from Afghanistan contained the name Abu Bakr al-Shamrani, although the document indicated that he was from Saudi Arabia. IIR 7 739 3396 02.

40. Although Alahdal claims the escaping fighters threw away their weapons in the mountains because they were too heavy to carry, and would not be needed in Pakistan, IIR 6 034 0221 02, Alahdal's initial screening form indicates that, prior to his capture, he had been carrying a Kalashnikov. ISN 171 Initial Screening (Dec. 31, 2001). He was also captured with \$100, 500

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Saudi Riyals, 6,000 Pakistani Rupees, a transistor radio, a wristwatch, a calculator, and a piece of paper with the address and phone number of a safehouse. ISN 171 PERSDOC (Sept. 17, 2002); IIR 6 034 0292 02; ISN 171 MFR (Apr. 8, 2002).

41. Alahdal's radio was a one-way receiver that he claims he purchased in a Kabul market and was not a military radio. ISN 171 MFR (Mar. 31, 2002). On another occasion, Alahdal claimed that it was issued to him in Afghanistan by an Afghani. ISN 171 MFR (July 24, 2003). He said that he used it to listen to the news and never communicated with anyone over the radio. ISN 171 MFR (July 11, 2003). He identified a photo of the ¹ [REDACTED] World Band receiver as the radio he was carrying when captured. ISN 171 MFR (July 24, 2003). Although most people in his unit had transistor radios for news, the command element of the unit had an intelligence radio. IIR 6 034 0221 02. Alahdal was shown a series of photos of communication equipment and receivers and positively identified two models as being similar to the ones used by Taliban commanders in Afghanistan. He said that he used a radio on a few occasions and described to interrogators the basic procedures for using a push-to-talk radio. ISN 171 MFR (July 15, 2003).

42. Alahdal explained that he used the calculator to determine exchange rates for the currencies of the various countries he was visiting. ISN 171 FD-302 (Oct. 10, 2002).

43. As Alahdal was escaping Afghanistan, his leader, Abdullah (al-Iraqi) instructed him to copy down in Urdu the phone numbers and addresses of places where he could find help

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in Pakistan. Although Alahdal did not speak Urdu, he was instructed to show the paper to a taxi driver or someone else who could read Urdu. He was told that this information would enable him to find help, a place to hide, money, and even help escaping the area. IIR 6 034 0292 02; ISN 171 PERSDOC (Sept. 17, 2002). Alahdal had this piece of paper in his possession when he was captured. ISN 171 MFR (Apr. 8, 2002); ISN 171 PERSDOC (Sept. 17, 2002). The contact information on the paper was for a safehouse and central office operated by the Pakistani extremist group Harkat ul-Jihad al-Islami (HUJI). ISN 171 PERSDOC (Sept. 17, 2002). HUJI has been named by the President as a Specially Designated Global Terrorist Organization pursuant to Executive Order 13224. *See* <http://www.treasury.gov/offices/enforcement/ofac/programs/ten-or/terror/terror.pdf>. HUJI has been involved in violent militant activity, and its leaders helped al-Qaida fighters escape from Tora Bora. IIR 6 044 0136 02.

CONCLUSION

For these reasons, Alahdal is lawfully subject to detention.

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