

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

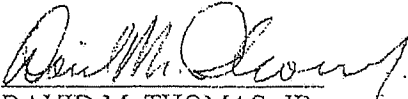
AYMAN SAEED BATARFI, <i>et al.</i> ,)	
)	
Petitioners,)	
)	
v.)	Civil Action No. 05-CV-0409 (EGS)
)	
GEORGE W. BUSH,)	
President of the United States,)	
<i>et al.</i> ,)	
)	
Respondents.)	
_____)	

Declaration of Rear Admiral David M. Thomas, Jr.

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 the files of the Department of Defense or other government agencies contain information used by the Department of Defense to establish the status of Ayman Saeed Batarfi, ISN 627, as an enemy combatant and to substantiate his detention as an enemy combatant at Guantanamo Bay, Cuba.

Dated: 12 August 2008


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

~~SECRET//NOFORN~~

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AYMAN SAEED ABDULLAH
BATARFI,

Petitioner,

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

Civil Action No. 05-CIV-0409 (JGS)

NARRATIVE FOR AYMAN BATARFI, ISN 627

Introduction

1. Ayman Saeed Abdullah Batarfi ("Batarfi") is a Yemeni citizen currently detained at the U.S. Naval Station, Guantanamo Bay, Cuba. He is a medical doctor and a trained combat veteran. Batarfi admits to being the chief medical advisor for al-Wafa al-Igatha al-Islamia, also known as the Wafa Humanitarian Organization ("al-Wafa"), which has been designated as a terrorist organization by the United States and the United Nations. Batarfi acknowledged associations with senior al-Qaida members, including receiving and complying with a direct request from Usama bin Laden to remain at Tora Bora in December 2001, when that area was under attack by United States forces. He was severely injured in an airstrike there and, after being rescued by Afghan forces, requested to be and was transferred to United States custody.
2. In the attached documents that are used to assess Batarfi as an enemy combatant,

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

there are interviews with him and others conducted by law enforcement and intelligence personnel, as well as information derived from other sources and methods. Information received from these sources is typically reproduced in reports created by the collecting officer. Such information is also commonly analyzed by intelligence or law enforcement personnel and used to produce other intelligence products.

3. As with all detained enemy combatants at Guantanamo Bay, Cuba, Batarfi has an assigned Internment Serial Number (ISN)—an administrative code assigned to military detainees. Batarfi's full ISN is [REDACTED] in which the number "627" is Batarfi'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 Batarfi by name, full ISN, or various short forms, such as "YM-000627" or "ISN 627." Likewise, other military detainees may be referred to in source documents and this summary by name or various forms of ISN.

4. The following narrative illustrates the reasons why Batarfi's continued detention is lawful, as contained in the source documents attached as the factual return to his petition for a writ of habeas corpus. This narrative is not intended to be a complete explication of the information in support of Batarfi's detention in those documents.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

**Batarfi was the Chief Medical Advisor for al-Wafa,
a Terrorist Organization Associated with al-Qaida**

5. Batarfi admits to being the chief medical advisor for al-Wafa al-Igatha al-Islamia (“al-Wafa”). [REDACTED] *see also* Ex. 21, ISN 627 STMT ARB-1 at 7; Ex. 23, ISN 627 STMT ARB-2 at 11. [REDACTED]

[REDACTED]

6. [REDACTED]

7. The organization has been named by the President as a Specially Designated Global Terrorist pursuant to the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1701 *et seq.* *See* Exec. Order 13224, 66 Fed. Reg. 49079, 49082 (Sept. 23, 2001), Ex. 30; *see also* 66 Fed. Reg. 54404, 54405 (Oct. 26, 2001). This Executive Order provides authority for the designation and blocking of assets of certain listed organization and individuals (supplemented by later designations) who have committed or pose a significant risk of committing certain terrorist acts. Exec. Order 13224, 66 Fed. Reg. at 49079-80. Among other things, designation blocks United States assets of the organization and prohibits any United States person or person within the United States from dealing with the organization or conducting transactions involving blocked assets. *See* 50 U.S.C. § 1702. Shortly after the President signed the Executive Order, he specifically designated al-Wafa as one of the organizations linked to terrorism, 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)

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

intimidate or coerce a civilian population, (B) influence the policy of a government by intimidate or coercion, or (C) affect the conduct of a government by mass destruction, assassination, kidnapping or hostage-taking.” *Id.* § 3(d), 66 Fed. Reg. at 49080. As of August 2008, al-Wafa remains on this designation list. *See*

<http://www.treasury.gov/offices/enforcement/ofac/programs/terror/terror.pdf>; Ex. 31.

8. Al-Wafa has also been included on the Department of State’s Terrorist Exclusion List. Title 8, United States Code, Section 1182 authorizes the Secretary of State, in consultation or upon request of the Attorney General, to designate terrorist organizations for immigration purposes. This authority is known as the Terrorist Exclusion List (TEL) authority. An organization can be placed on the TEL if the Secretary of State finds that the organization:

- a. Commits or incites to commit, under circumstances indicating an intention to cause death or serious bodily injury, a terrorist activity;
- b. Prepares or plans a terrorist activity
- c. Gathers information on potential targets for terrorist activity, or
- d. Provides material support to further terrorist activity.

See 8 U.S.C. § 1182. Individual aliens can be found “inadmissible” to the United States if they supported or associated with TEL-designated organizations by, among other things, being a member of the organization or committing an act that the alien knows, or reasonably should have known, affords material support to an organization on the TEL list. On December 7, 2001, Secretary of State Colin Powell, in consultation with the Attorney General, designated al-Wafa, thereby placing it in the TEL list, where it remains. *See* 66 Fed. Reg. 63620, 63620 (Dec. 7, 2001), Ex. 32; 69 Fed. Reg. 23555, 23555 (Apr. 29, 2004); *see also*

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

<http://www.state.gov/s/ct/rls/fs/2002/15222.htm>; Ex. 33 at 2.

9. Additionally, on October 6, 2001, the United Nations Security Council Committee designated al-Wafa as an "entity and other group and undertakings associated with al-Qaida," authorizing three sanctions measures – freezing assets, banning travel and an arms embargo - imposed by the Security Council on individuals and entities belonging to or associated with the Taliban, Usama Bin Laden and the al-Qaida organization. *See* <http://www.un.org/sc/committees/1267/consolist.shtml>; Ex. 34. As of August 2008, al-Wafa remains on this designation list. *Id.*

10. Batarfi opined that bin Laden did not like al-Wafa because he thought al-Wafa employees were spies for the Saudi Arabian government. [REDACTED] Ex. 21, ISN 627 STMT ARB-1 at 5, but this statement is at odds with bin Laden's actions described in paragraphs 21-23 below, and particularly with regard to bin Laden's association with Batarfi.

Batarfi Provided Aid to Taliban Forces

11. Batarfi asserted that while in Afghanistan in June 2001, he met with the Taliban Minister of Health to request permission to work and to facilitate the distribution of medical supplies. *See* Ex. 21, ISN 627 STMT ARB-1 at 12; Ex. 23, ISN 627 STMT ARB-2 at 18-19.

12. Batarfi stated that he traveled between Afghanistan and Pakistan several times purchasing, transporting, and distributing medical supplies and equipment for al-Wafa [REDACTED]

[REDACTED] Ex. 1, ISN 627 FBI FD-302 (May 17, 2002), [REDACTED]
[REDACTED]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

13. Batarfi said that he traveled to Herat, Afghanistan, to pick up three trucks for al-Wafa for use as ambulances. [REDACTED]

Ex. 21, ISN 627 STMT ARB-1 at 16; Ex. 23, ISN 627 STMT ARB-2 at 23-24. [REDACTED]

Batarfi Is a Trained Combat Veteran

14. According to his own accounts, in 1988 Batarfi traveled a training camp in Afghanistan, [REDACTED]

sometimes also as [REDACTED] or other names [REDACTED]

[REDACTED] Ex. 1, ISN 627 FBI FD-302 (May 17, 2002) at 1-2; [REDACTED]

[REDACTED] He stated that he spent half a month there, and received military-type training on various weapons, including small arms, such as the AK-47 assault rifle, and even anti-aircraft weaponry. [REDACTED]

[REDACTED] Ex. 1, ISN 627 FBI FD-302 (May 17, 2002) at 1-2; [REDACTED]

see also Ex. 21, ISN 627 STMT ARB-1 at 11; Ex. 23, ISN 627 STMT ARB-2 at 17. However, in one interview, Batarfi claimed that he did not attend any training camps in Afghanistan. *See* Ex. 3, ISN 627 CITF FM40 (July 24, 2003) at 4.

15. After leaving the training camp, Batarfi stated that he participated in night-time

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

raids against Soviet forces [REDACTED] Ex. 21, ISN 627 STMT ARB-1
at 11; Ex. 23, ISN 627 STMT ARB-2 at 17.



**Batarfi Was Present at Tora Bora While al-Qaida
Engaged United States and Allied Forces**

17. In mid-November 2001, Usama bin Laden and members of his entourage of al-Qaida operatives responded to United States military action by retreating to a mountainous area of Afghanistan known as Tora Bora, where they engaged United States and allied forces that December. *See, e.g., National Commission on Terrorist Attacks upon the United States, The 9/11 Commission Report 338 (2004).*

18. At that time, Batarfi fled to Tora Bora to escape the bombings in Jalalabad. Ex. 21, ISN 627 STMT ARB-1 at 8-9; Ex. 23, ISN 627 STMT ARB-2 at 12-13. [REDACTED]



19. He also stated that he carried a radio in Tora Bora. *See Ex. 2, ISN 627 FBI FD-*

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

302 (Aug. 13, 2002) at 2. He claimed that a man leaving the mountains who no longer needed a radio gave it to him because he was a doctor. *See* Ex. 3, ISN 627 CITF FM40 (Jul 24, 2003) at 2.

The radio had a general channel for communications, and all numbers used were pre-programmed. Batarfi stated that every area of al-Qaida's operations had an assigned radio, and that those in charge were also assigned a personal radio. [REDACTED]

Ex. 2, ISN 627 FBI FD-302 (Aug. 13, 2002) at 2; Ex. 21, ISN 627 STMT ARB-1 at 10-11.

20. [REDACTED]

[REDACTED] also confirmed that Batarfi was at Tora Bora and that Batarfi treated him when he was sick. *See* R. 7, ISN [REDACTED] FBI FD-302 (May 19, 2002) at 13.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Batarfi Remained at Tora Bora at the Direct Request of Usama bin Laden

21. Batarfi stated that he spoke to Usama bin Laden on at least two separate occasions in Afghanistan. The first time was in August 2001 at a funeral for a man fatally wounded while fighting against the Northern Alliance whom Batarfi had attempted to treat. *See* Ex. 3, ISN 627 CITF FM40 (Jul 24, 2003) at 1; [REDACTED] The second time was at Tora Bora during the United States and allied assault. During this later meeting, bin Laden asked Batarfi stay at Tora Bora and provide medicine to the Tora Bora region and medical care to those injured in the fighting. Batarfi agreed to bin Laden's request. *See* Ex. 3, ISN 627 CITF FM40 (July 24, 2003) at 1 [REDACTED] Ex. 21, ISN 627 STMT ARB-1 at 9-10, 13-14.

22. [REDACTED]

23. Batarfi stated that in mid-December, when he had been at Tora Bora for twenty-eight or twenty-nine days, he was severely injured during an air strike and left for dead. He stated that he was rescued by a group of Afghans who took him to the Jalalabad Central Jail and then the hospital. After four weeks, Batarfi was transferred back to the jail where he remained for one week. For medical reasons, Batarfi requested to be transferred to United States custody. The United States took Batarfi into custody on January 27, 2002 and transferred him to

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Guantanamo Bay in May 2002. See Ex. 1, ISN 627 FBI FD-302 (May 17, 2002) at 2; [REDACTED]

Batarfi Stayed in Several Guest Houses Affiliated with al-Qaida

24. In June 2000, Batarfi stayed at the Hajji Habash Guesthouse in Kandahar, Afghanistan while working as a medic in the clinic across the street. See Ex. 3, ISN 627 CITF FM40 (July 24, 2003) at 4; Ex. 21, ISN 627 STMT ARB-1 at 3; Ex. 23, ISN 627 STMT ARB-2 at 4-5. Batarfi stated his belief that any Arab visiting the city could use that Guesthouse. *Id.*

[REDACTED]

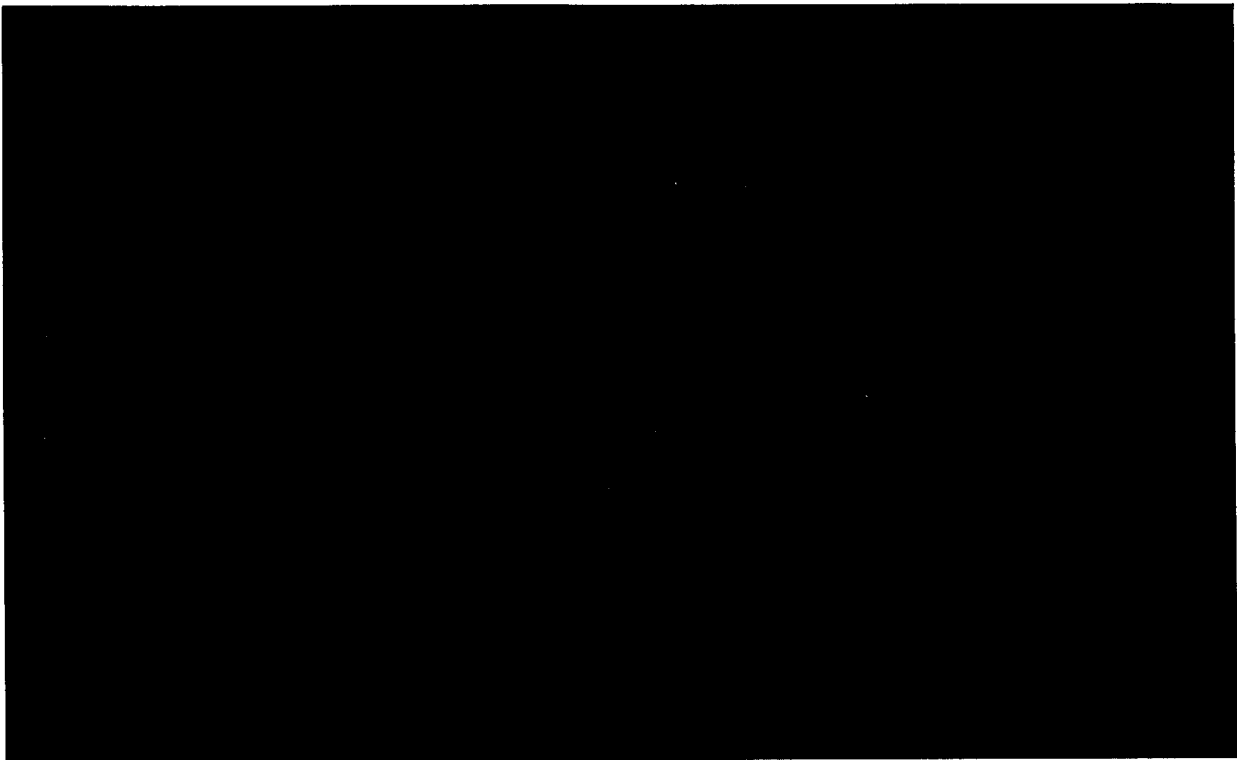
25. In May and July 2001, he stayed at the Ghulam Bacha Guesthouse in Kabul, Afghanistan, which he believed to be associated with Usama bin Laden. See Ex. 2, ISN 627 FBI FD-302 (Aug. 13, 2002) at 1; [REDACTED] Ex. 21, ISN 627 STMT ARB-1 at 4.

26. Also in May 2001, Batarfi stated that he stayed overnight at the Taliban guest house in Quetta, Pakistan. See [REDACTED] Ex. 23, ISN 627 STMT ARB-2 at [REDACTED]

27. [REDACTED]

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~



Conclusion

For reasons described above and in the attached exhibits, Batarfi is properly detained by the United States.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AYMAN SAEED ABDULLAH
BATARFI,

Petitioner,

v.

GEORGE WALKER BUSH, *et al.*,

Respondents.

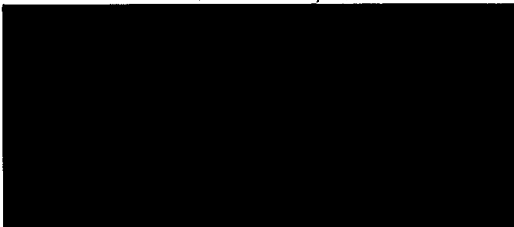
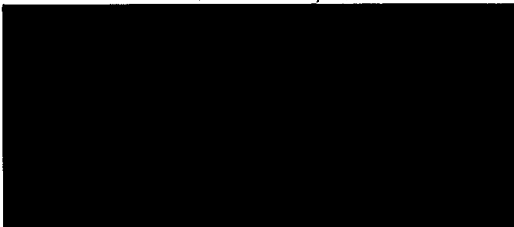
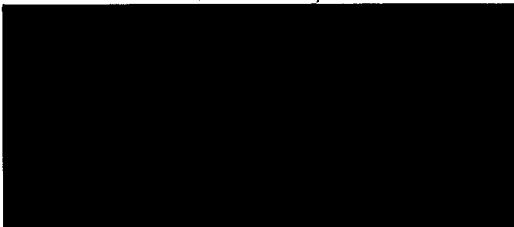
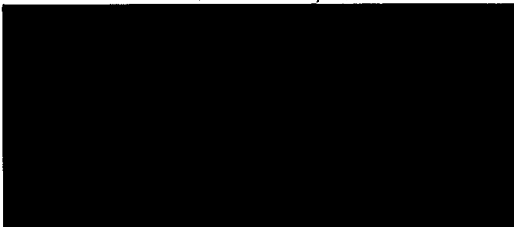
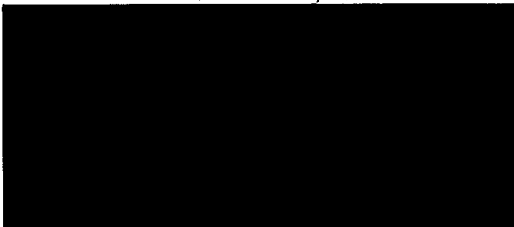
Civil Action No. 05-CIV-0409 (JGS)

EXHIBIT LIST

- | | |
|--------|------------------------------------------|
| Ex. 1 | ISN 627 FBI FD-302 (May 17, 2002) |
| Ex. 2 | ISN 627 FBI FD-302 (Aug. 13, 2002) |
| Ex. 3 | ISN 627 CITF FM40 (July 24, 2003) |
| Ex. 4 | ISN 627 SIR (Aug. 1, 1007) |
| Ex. 5 | ISN 627 SIR (Mar. 13, 2007) |
| Ex. 6 | ISN 627 SIR (Feb. 26, 2007) |
| Ex. 7 | ISN [REDACTED] FBI FD-302 (May 19, 2002) |
| Ex. 8 | ISN [REDACTED] SIR (June 19, 2003) |
| Ex. 9 | DIA B5926034008804 |
| Ex. 10 | IIR 2 340 6066 02 |
| Ex. 11 | IIR 4 201 2767 06 |
| Ex. 12 | IIR 6 034 0088 04 |
| Ex. 13 | IIR 6 034 0178 03 |
| Ex. 14 | IIR 6 034 0193 04 |
| Ex. 15 | IIR 6 034 0254 04 |
| Ex. 16 | IIR 6 034 0265 05 |
| Ex. 17 | IIR 6 034 0620 03 |
| Ex. 18 | IIR 6 034 1231 03 |

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Ex. 19	IIR 6 034 1455 03
Ex. 20	IIR 6 034 1515 03
Ex. 21	ISN 627 STMT ARB-1
Ex. 22	ISN 627 ELECTION FORM ARB-2
Ex. 23	ISN 627 STMT ARB-3
Ex. 24	Declaration of Wendy Hilton
Ex. 25	
Ex. 26	
Ex. 27	
Ex. 28	
Ex. 29	
Ex. 30	Executive Order 13224
Ex. 31	Specially Designated Nationals (pages 1 and 22)
Ex. 32	Designation of Terrorist Organizations
Ex. 33	Terrorist Exclusion List
Ex. 34	UNSCR 1267 List (pages 1, 67-68)

~~SECRET//NOFORN~~