

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED:
ABD AL HADI AL-IRAQI

2. ALIASES OF ACCUSED:

SEE ATTACHED APPENDIX A

3. ISN NUMBER OF ACCUSED (LAST FOUR):
10026

II. CHARGES AND SPECIFICATIONS

4. CHARGE: VIOLATION OF SECTION AND TITLE OF CRIME IN PART IV OF M.M.C.

SPECIFICATION:

SEE ATTACHED CONTINUATION SHEET OF BLOCK II. CHARGES AND SPECIFICATIONS

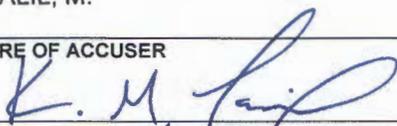
III. SWEARING OF CHARGES

5a. NAME OF ACCUSER (LAST, FIRST, MI)
TAWIL, KHALIL, M.

5b. GRADE
CPT/O-3

5c. ORGANIZATION OF ACCUSER
Office of the Chief Prosecutor, OMC

5d. SIGNATURE OF ACCUSER



5e. DATE (YYYYMMDD)
20130828

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oath in cases of this character, personally appeared the above named accuser the 28th day of August, 2013, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

MARY K. KRIVDA
Typed Name of Officer

Office of Military Commissions
Organization of Officer

O-5
Grade

Judge Advocate, Article 136(a)(1), UCMJ
Official Capacity to Administer Oath
(See R.M.C. 307(b) must be commissioned officer)


Signature

IV. NOTICE TO THE ACCUSED

6. On 29 August, 2013 the accused was notified of the charges against him/her (See R.M.C. 308).

KATHRYN M. GARSTAN, CAPT
Typed Name and Grade of Person Who Caused
Accused to Be Notified of Charges

CITF
Organization of the Person Who Caused
Accused to Be Notified of Charges

Kathryn M. Garstan
Signature

V. RECEIPT OF CHARGES BY CONVENING AUTHORITY

7. The sworn charges were received at 1345 hours, on 4 Sep 2013, at Alexandria, Virginia

Location

For the Convening Authority: Laura C. Hill
Typed Name of Officer

GS-13

Grade

Laura C Hill
Signature

VI. REFERRAL

8a. DESIGNATION OF CONVENING AUTHORITY

8b. PLACE

8c. DATE (YYYYMMDD)

Referred for trial to the (non)capital military commission convened by military commission convening order _____

_____ subject to the following instructions¹: _____

By _____ of _____
Command, Order, or Direction

Typed Name and Grade of Officer

Official Capacity of Officer Signing

Signature

VII. SERVICE OF CHARGES

9. On _____, _____ I (caused to be) served a copy these charges on the above named accused.

Typed Name of Trial Counsel

Grade of Trial Counsel

Signature of Trial Counsel

FOOTNOTES

¹See R.M.C. 601 concerning instructions. If none, so state.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

COMMON ALLEGATIONS

These common allegations set forth the manner and means by which the accused, Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), and his co-conspirators participated in a common plan and agreement, and aided, abetted, counseled, commanded, and procured the commission of each of the offenses listed at Charges II through IV. Further, these common allegations set forth the manner and means by which the accused, by virtue of his position as a superior commander, knew, had reason to know, and should have known that a subordinate was about to commit such acts and had done so and the accused failed to take the necessary and reasonable measures to prevent such acts and to punish the perpetrators thereof.

The accused, a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, from in or about 1996 to in or about late 2006, at multiple locations, in the context of and associated with hostilities, knowingly conspire and agree with individuals, known and unknown, to commit substantive offenses triable by military commission for the purpose of, among other purposes, forcing the United States, its allies, and non-Muslims out of the Arabian Peninsula, Afghanistan, and Iraq. To that end, the accused and his co-conspirators committed the following overt acts to accomplish the objectives and purposes of the conspiracy:

1. In or about August 1996, Usama bin Laden (see Appendix B for a list of aliases), leader of the terrorist organization al Qaeda, issued a public statement entitled “Declaration of Holy War Against the Americans Who are Occupying the Land of the Two Holy Places,” (“1996 Declaration”) in which Usama bin Laden called for, among other things, the killing of U.S. military personnel serving on the Arabian Peninsula.
2. In or about 1996, Abd al Hadi commanded al Qaeda’s al Farouk terrorist training camp located at or near Khost, Afghanistan.
3. In or about February 1998, Usama bin Laden and others, issued a *fatwa* (purported religious ruling) under the banner of “The International Islamic Front for Jihad against the Jews and the Crusaders,” (“1998 *Fatwa*”) claiming that “to kill Americans and their allies, both civilian and military, is the individual duty of every Muslim able to do so, and in any country where it is possible” or words to that effect. The 1998 *Fatwa* further declared it is “God’s order to kill Americans and plunder their wealth wherever and whenever they find it,” or words to that effect.
4. On or about 29 May 1998, Usama bin Laden issued a statement entitled “The Nuclear Bomb of Islam,” calling for all Muslims to continue efforts to seek nuclear and biological weapons in preparation for a war against America and its allies.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

5. Beginning in or about 1996 through in or about 1998, Abd al Hadi commanded al Qaeda guesthouse operations at or near Kabul, Afghanistan, including the Ashara and the Ghulam Bacha guesthouses.
6. Beginning in or about 1996 through in or about 1998, Abd al Hadi distributed copies of al Qaeda propaganda to existing and prospective al Qaeda operatives to garner further support for al Qaeda and al Qaeda's unlawful aims.
7. Beginning in or about 1997, Abd al Hadi commanded all al Qaeda operatives at or near Kabul, Afghanistan.
8. In or about 1999, Abd al Hadi swore *bayat* (an oath of loyalty) to Usama bin Laden.
9. Beginning in or about 1999, Abd al Hadi served as an al Qaeda liaison to the Taliban.
10. In or about 2000, Abd al Hadi participated as a voting member of the group that merged al Qaeda with Egyptian Islamic Jihad and elected Usama bin Laden leader and Ayman al Zawahiri (see Appendix B for a list of aliases) deputy leader of the new al Qaeda.
11. In or about 2000, Abd al Hadi served on al Qaeda's senior advisory council.
12. Beginning in or about 2000, Abd al Hadi and other members of al Qaeda's senior advisory council drafted the rules that govern al Qaeda.
13. Beginning no later than in or about 2000, Abd al Hadi met with co-conspirators, including Usama bin Laden and Ayman al Zawahiri, and discussed al Qaeda's objectives, which included killing Americans and other civilians.
14. In or about 2000, Abd al Hadi communicated with senior al Qaeda member Muhammed Atef (see Appendix B for a list of aliases) concerning efforts to acquire chemical weapons.
15. Beginning in or about 2000, Abd al Hadi served as one of al Qaeda's representatives to the Taliban's "Arab Liaison Committee."
16. In or about March 2001, in his role as al Qaeda commander of the region, Abd al Hadi led a group of al Qaeda operatives who assisted Taliban members in the destruction of the Buddha statues at or near Bamiyan, Afghanistan.
17. Between in or about June 2001 and in or about September 2001, Abd al Hadi and Usama bin Laden discussed al Qaeda's upcoming major attack on the United States mainland.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

18. During their meetings between in or about June 2001 and in or about September 2001, Abd al Hadi acquired approximately \$20,000 U.S. from Usama bin Laden to purchase weapons and ammunition.
19. Between in or about March 2002 and in or about 2004, Abd al Hadi directed, organized, funded, supplied, and oversaw all of al Qaeda's operations against U.S. forces, coalition forces, and civilians in Afghanistan and Pakistan.
20. Between in or about March 2002 and in or about 2004, Abd al Hadi coordinated al Qaeda operations with Taliban and other associated groups' and persons' operations against U.S. forces, coalition forces, and civilians in Afghanistan and Pakistan.
21. Between in or about March 2002 and in or about 2004, Abd al Hadi funded Taliban and other associated groups' and persons' operations against U.S. forces, coalition forces, and civilians in Afghanistan and Pakistan.
22. Between in or about March 2002 and continuing at least until in or about 2004, Abd al Hadi issued orders consistent with, and his operatives adhered to, the following al Qaeda tactics:
 - a. to kill Americans and their allies wherever found;
 - b. to kill everyone encountered on the battlefield and to take no prisoners;
 - c. to view civilians and medical personnel as acceptable targets;
 - d. to dress in local attire in order to blend in with the local civilian population;
 - e. to use non-conventional methods such as suicide bombings and vehicle-borne improvised explosive devices ("VBIEDs"); and
 - f. to videotape attacks and victims' deaths for propaganda purposes.
23. In or about Spring 2002, Abd al Hadi and Khalid Shaikh Mohammad (see Appendix B for a list of aliases) met and plotted operations against Americans and their allies and plotted to assassinate Pakistani President Pervez Musharraf.
24. In or about Spring 2002, Abd al Hadi received approximately \$100,000 U.S. from Khalid Shaikh Mohammad to fund al Qaeda operations.
25. In or about December 2002, Abd al Hadi directed operatives to conduct attacks on U.S. military installations at or near L'Wara, Afghanistan.
26. In or about December 2002, at or near L'Wara, Afghanistan, Abd al Hadi's operatives conducted multiple attacks on U.S. military installations using rockets and small arms.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

27. On or about 21 December 2002, at or near Shkin, Afghanistan, Abd al Hadi's operatives shot and killed a U.S. soldier.
28. On or about 29 December 2002, at or near L'Wara, Afghanistan, Abd al Hadi's operatives shot a U.S. soldier, which rendered the soldier blind.
29. Beginning in or about 2003, Abd al Hadi took charge of providing security for Ayman al Zawahiri.
30. Between in or about 2003 and in or about 2004, Abd al Hadi served on al Qaeda's senior advisory council for the area at or near the town of Shkai on or around the border of Afghanistan and Pakistan.
31. On or about 25 April 2003, at or near Shkin, Afghanistan, Abd al Hadi's operatives attacked a U.S. convoy, killing two U.S. service members and injuring numerous others.
32. On or about 25 April 2003, Abd al Hadi compensated al Qaeda operatives for executing the 25 April 2003 attack on U.S. forces at or near Shkin, Afghanistan.
33. On or about 7 June 2003, Abd al Hadi supplied a subordinate commander with a suicide bomber, approximately \$2,000 U.S., and a video camera to execute and record an attack on coalition forces at or near Kabul, Afghanistan.
34. On or about 7 June 2003, at or near Kabul, Afghanistan, the suicide bomber Abd al Hadi provided to the subordinate commander detonated a VBIED appearing to be a civilian vehicle near a bus carrying members of the German military, killing and injuring numerous German military members.
35. In or about September 2003, Abd al Hadi organized and planned an attack on U.S. forces located at or near a U.S. military installation at or near Shkin, Afghanistan.
36. On or about 29 September 2003, Abd al Hadi led and executed an attack on U.S. forces at or near a U.S. military installation at or near Shkin, Afghanistan, killing one U.S. soldier and injuring two U.S. soldiers.
37. On or about 29 September 2003, during the attack on U.S. forces at or near a U.S. military installation at or near Shkin, Afghanistan, Abd al Hadi's operatives fired rocket-propelled grenades ("RPGs") and small arms at the military medical helicopter while it attempted to land to evacuate the U.S. casualty suffered during the attack.
38. On or about 29 September 2003, Abd al Hadi ordered the attack on U.S. forces located at or near a U.S. military installation at or near Shkin, Afghanistan, to be videotaped and made into a propaganda film, entitled *Harb Wa Salib*, which

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

includes video footage of the death of the U.S. soldier.

39. On or about 2 October 2003, Abd al Hadi funded an improvised explosive device (“IED”) attack against coalition forces at or near Kabul, Afghanistan.
40. On or about 2 October 2003, at or near Kabul, Afghanistan, Abd al Hadi’s operatives planted and armed a roadside IED which then detonated, killing two members of the Canadian military and injuring one Canadian military member.
41. On or about 25 October 2003, at or near Shkin, Afghanistan, Abd al Hadi’s operatives attacked a convoy they believed to be carrying “important persons” or “diplomats” by using RPGs and small arms, killing two U.S. persons. During this attack, Abd al Hadi’s operatives shot at injured coalition service members who had been gathered at a Casualty Collection Point.
42. On or about 25 October 2003, Abd al Hadi funded the attack targeting persons he believed to be “important persons” or “diplomats.”
43. On or about 16 November 2003, Abd al Hadi provided a reward of approximately \$200 to \$300 U.S. to the Taliban for assassinating a civilian United Nations worker at or near Ghazni, Afghanistan, at which time Abd al Hadi knew the victim was a civilian.
44. In or about late 2003, Abd al Hadi provided three of his al Qaeda operatives, including Ahmed Khalfan Ghailani, to Hamza Rabia for use in terrorist operations intended to occur outside of Afghanistan and Pakistan.
45. On or about 27 January 2004, Abd al Hadi provided a suicide bomber and funding to a subordinate commander to execute two simultaneous suicide attacks on coalition forces at or near Kabul, Afghanistan.
46. On or about 27 January 2004, at or near Kabul, Afghanistan, Abd al Hadi’s suicide bomber detonated an explosive vest directed at a Canadian convoy, killing a member of the Canadian military and injuring three Canadian military members.
47. On or about 28 January 2004, at or near Kabul, Afghanistan, a second suicide bomber detonated a VBIED appearing to be a civilian vehicle directed at a British and Estonian convoy, killing a member of the British military and injuring other British and Estonian military members.
48. On or about 29 March 2004, Abd al Hadi provided a suicide bomber to attack coalition forces at or near Jalalabad, Afghanistan.
49. On or about 29 March 2004, at or near Jalalabad, Afghanistan, Abd al Hadi’s suicide bomber attacked a convoy of U.S. forces by attempting to detonate a VBIED appearing to be a civilian vehicle.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

50. On or about 23 May 2004, Abd al Hadi directed, planned, funded, and trained operatives for an attack on coalition forces at or near Kabul, Afghanistan.
51. On or about 23 May 2004, at or near Kabul, Afghanistan, Abd al Hadi's operatives attacked a convoy of Norwegian forces using small arms and RPGs, killing a member of the Norwegian military.
52. On or about 29 May 2004, Abd al Hadi ordered and funded an IED attack on coalition forces at or near Qalat, Afghanistan.
53. On or about 29 May 2004, at or near Qalat, Afghanistan, Abd al Hadi's operatives planted and armed a pressure-plate roadside IED which then detonated, killing four U.S. service members.
54. In or about late 2003 or early 2004, Abd al Hadi provided \$25,000 U.S. to an operative to carry out a plot to kill Pakistani President Musharraf.
55. Beginning no later than in or about 2005, Abd al Hadi acted as an al Qaeda liaison to al Qaeda in Iraq ("AQI").
56. In or about June 2006, at the direction of Usama bin Laden, Abd al Hadi began travel to Iraq to advise and assist AQI with its insurgency.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

CHARGE I: VIOLATION OF 10 U.S.C. § 950t(6), DENYING QUARTER

SPECIFICATION: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, from in or about 2003 to in or about 2004, at multiple locations in and around Afghanistan and Pakistan, in the context of and associated with hostilities, while in a position of effective command and control over subordinate forces, declare, order, and otherwise indicate to those forces that there shall be no survivors, when it was foreseeable that circumstances would be such that a practicable and reasonable ability to accept surrender would exist, with the intent to conduct hostilities such that there would be no survivors.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

CHARGE II: VIOLATION OF 10 U.S.C. § 950t(4), ATTACKING PROTECTED PROPERTY

SPECIFICATION: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, on or about 29 September 2003, at or near Shkin, Afghanistan, in the context of and associated with hostilities, intentionally attack a military medical helicopter, which was protected property under the laws of war as a military medical aircraft bearing the emblem and distinctive sign of medical services of armed forces, to wit: the red cross on a white ground, by firing at said military medical helicopter as it attempted to evacuate a United States military casualty from the battlefield, which protected property was the object of the attack and Abd al Hadi knew and should have known of the factual circumstances that established the military medical helicopter’s protected status.

The Accused is liable for the above alleged offense as a principal, a co-conspirator, and a participant in a common plan, as set forth in the section entitled “Common Allegations” which is hereby re-alleged and incorporated by reference as if set forth fully herein.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

CHARGE III: VIOLATION OF 10 U.S.C. § 950t(17), USING TREACHERY OR PERFDY

SPECIFICATION 1: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, on or about 7 June 2003, at or near Kabul, Afghanistan, in the context of and associated with hostilities, invite the confidence and belief of at least one person that a vehicle appearing to be a civilian vehicle was entitled to protection under the law of war, and, intending to use and betray that confidence and belief, did, thereafter, make use of that confidence and belief to detonate explosives in said vehicle thereby attacking a bus carrying members of the German military, resulting in death and injury to at least one of those German military members.

SPECIFICATION 2: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, on or about 27 January 2004, at or near Kabul, Afghanistan, in the context of and associated with hostilities, invite the confidence and belief of at least one person that an individual appearing to be a noncombatant civilian was entitled to protection under the law of war, and, intending to use and betray that confidence and belief, did, thereafter, make use of that confidence and belief to detonate explosives concealed beneath said individual’s civilian clothing thereby attacking a coalition convoy carrying members of the Canadian military resulting in death and injury to at least one of those Canadian military members.

SPECIFICATION 3: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, on or about 28 January 2004, at or near Kabul, Afghanistan, in the context of and associated with hostilities, invite the confidence and belief of at least one person that a vehicle appearing to be a civilian vehicle was entitled to protection under the law of war, and, intending to use and betray that confidence and belief, did, thereafter, make use of that confidence and belief to detonate explosives in said vehicle thereby attacking a coalition convoy carrying members of the British and Estonian militaries, resulting in death and injury to at least one of those military members.

The Accused is liable for the above alleged offenses as a principal, a co-conspirator, and a participant in a common plan, as set forth in the section entitled “Common Allegations” which is hereby re-alleged and incorporated by reference as if set forth fully herein.

CONTINUATION SHEET – MC Form 458 (Jan 2007) – Continuation of the Charges and Specifications in the case of UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI

CHARGE IV: VIOLATION OF 10 U.S.C. § 950t(28), ATTEMPTED USE OF TREACHERY OR PERFIDY

SPECIFICATION: In that Abd al Hadi al-Iraqi (“Abd al Hadi”) (see Appendix A for a list of aliases), a person subject to trial by military commission as an alien unprivileged enemy belligerent, did, on or about 29 March 2004, at or near Jalalabad, Afghanistan, in the context of and associated with hostilities, with the specific intent to commit the offense of Using Treachery or Perfidy (10 U.S.C. § 950t(17)), invite the confidence and belief of at least one person that a vehicle appearing to be a civilian vehicle was entitled to protection under the law of war, and, intending to use and betray that confidence and belief, did, thereafter, make use of that confidence and belief to attempt to detonate explosives in said vehicle thereby attacking a convoy carrying United States military members with the intent to kill and injure at least one person.

The Accused is liable for the above alleged offense as a principal, a co-conspirator, and a participant in a common plan, as set forth in the section entitled “Common Allegations” which is hereby re-alleged and incorporated by reference as if set forth fully herein.

Appendix A

List of Accused's Aliases

Aliases of Abd al Hadi al-Iraqi, among others:

Hadi al-Iraqi

(Variants: Abd al-Hadi, Abdul Hadi, al-Iraqi, Hadi)

Nashwan Abd al-Razzaq Abd al-Baqi

(Variants: Nashwan, al-Razzaq, al-Baqi)

Abdullah Khan

Abu 'Abdallah

Abd al-Muhayman al-Iraqi

(Variant: Abdul Muhaymin)

Abd al-Hadi al-Ansari

Abu Nadia

Ahmad Gazi

(Variant: Ghazi)

Khutaiba al Ansari

(Variant: Khotaiba)

Appendix B

List of Co-Conspirator Aliases

Aliases of Usama bin Laden, among others:

Sheikh Abu Abdullah

(Variant: Abu Abdullah)

Usama bin Muhammed bin Laden

(Variants: Sheikh Usama bin Laden, Usama bin Laden, Sheikh Usama, Sheikh bin Laden)

The Sheikh

Alias of Ayman al Zawahiri, among others:

Dr. Ayman al-Zawahiri

Aliases of Mohammed Atef, among others:

Abu Hafs al Masri

(Variants: Sheikh Abu Hafs, Abu Hafs)

Ahmed Abd al-Aziz

(Variant: Ahmad bin 'Abd al-Aziz)

Abu Hafs al Commandan

(Variants: Al-Komandat, The Commandant)

Aliases of Khalid Sheikh Mohammed, among others:

Mukhtar al Baluchi

(Variant: Mukhtar)

Hafiz

Meer Akram

Abdul Rahman

Abdullah Al Ghamdi