

~~CUI~~

**PERIODIC REVIEW BOARD FULL REVIEW
ZAYN AL-IBIDIN MUHAMMED HUSAYN, ISN 10016
STATEMENT OF PERSONAL COUNSEL**

27 June 2024

(a) INTRO

My name is Solomon Shinerock, and it is my honor to appear before this board on behalf of Zayn Al-Ibidin Muhammed Husayn, familiarly known as Abu Zubaydah. As we get started, I wish to thank the Periodic Review Secretariat and the Personal Representative for coordinating and facilitating this opportunity, and of course the members of the board for your attention to this matter.

Our goal today is to demonstrate for you that Abu Zubaydah does not present a continuing threat to the security of the United States. In doing so, I will address some of the concerns previously raised by this board in prior reviews, and then discuss a number of developments that I would submit strongly justify a change from the Board's prior threat assessments.

Abu Zubaydah's case is well known, primarily as a result of his pre-Guantanamo treatment, which included being waterboarded 83 times; judges up to the Supreme Court have agreed that he was a victim of torture. He has been in US custody since early 2002, initially abroad and, since 2006, at Guantanamo. When he was first taken into custody, he was a young man of 31 years. Now he is a middle-aged man with multiple and significant documented health problems. Since he has been in custody, numerous acknowledged senior figures of Al Qaeda have been released. He has been a model prisoner at Guantanamo, retains no extremist affiliations, and only wants to go home to his family and live out his remaining years quietly.

(b) PRIOR REVIEWS

2016 Initial Review

The initial review in 2016 posited that he remained a threat, noting a lack of connection with his family, and found that he "probably retains an extremist mindset." Today, neither of those

~~CUI~~

~~CUI~~

statements holds true. As described below, he has reconnected with his family over the past several years, and he has also exhibited no signs of an extremist mindset—to the contrary, he is engaged in the fundamentally transparent and democratic process of receiving and reflecting on information from the free press, and harbors no view that violence can be a useful way to address or solve any of the issues confronting the world today. His views are all to the contrary as you will readily observe at his PRB review.

The 31 March 2016 Guantánamo Detainee Profile averred that:

[Abu Zubaydah] has shown a high level of cooperation with the staff at Guantánamo Bay and has served as a cell block leader, assuming responsibility for communicating detainees' messages and grievances to the staff and maintaining order among the detainees... [He] has used his time at Guantánamo to hone his organizational skills, assess US custodial and debriefing practices, and solidify his reputation as a leader of his peers, all of which would help him should he choose to reengage in terrorist activity....

[Abu Zubaydah] probably retains an extremist mindset, judging from his earlier statements. [He] has not made such statements recently, probably to improve his chances for repatriation. [He] (also) has condemned ISIL atrocities and the killing of innocent people....

More than eight years have passed since that profile was drafted. It was difficult to respond then to the conjecture of an unexpressed extremist mindset. Abu Zubaydah would rightfully be condemned for open displays of defiance, violence, or expressions sympathetic to terrorist goals. But it is not right that he be condemned for an *absence* of extremist statements, cooperation with detention authorities, and care for his fellow inmates. There is zero evidence that I have seen substantiating a belief that Abu Zubaydah's comportment as a model inmate is a subterfuge hiding bad motives.

If there once was a time for the level of skepticism expressed in the 2016 detainee profile, I respectfully submit that time is long passed.

The best explanation for Abu Zubaydah's good behavior is the simplest explanation: he has no radical or violent tendencies, he understands and respects the rules that govern the society of which he is a part, he has continued to maintain this model behavior in the 8 years since the 2016

~~CUI~~

~~CUI~~

detainee profile was drafted, and he will carry that understanding and respect forward, whether in Guantanamo or released to a third location. He will agree to whatever oversight or surveillance is appropriate in that third country as he has nothing to hide and there will be no discovery of any improper motive or action. He is in the twilight of his life; he has suffered greatly; he is not in good health; and he is not the man he was when first apprehended. He wants to live out the rest of his life quietly and with family, and the uncontradicted facts support those conclusions.

That initial review concluded its threat determination based on allegations of Abu Zubaydah's relationship with Osama bin Ladin, and his susceptibility to re-engagement with terrorist activities.

Date of Final Determination	Detainee Name	Detainee ISN
22 SEP 2016	Zayn al-Ibidiin Muhammed Husayn	10016

The Periodic Review Board, by consensus, determined that continued law of war detention of the detainee remains necessary to protect against a continuing significant threat to the security of the United States.

In making this determination, the Board considered the detainee's past involvement in terrorist activity to include probably serving as one of Usama Bin Ladin's most trusted facilitators and his admitted abilities as a long-term facilitator and fundraiser for extremist causes, regardless of his claim that he was not a formal member of al-Qa'ida. The Board also noted the detainee's responses to the Board which minimized his relationship with al-Qa'ida and contradicted statements he previously made, such as "We and the sheikh (Usama Bin Ladin) are one. We have been working together for almost 10 years, but we were hoping to keep this work secret...hidden. We were forced to make ourselves known because of what took place in Afghanistan and thereafter."

Furthermore, the Board considered the detainee's susceptibility to recruitment by extremists due to his continued feeling of an obligation to defend and support oppressed Muslims. Lastly, the Board noted that it received no information regarding whether there are any potential receiving countries that could sufficiently mitigate his threat, and looks forward to such information being presented in future reviews.

First, we note that, having been detained for 22 years, to the extent he once had a relationship with terrorists and terrorist activities, it has been completely severed. Bin Ladin is dead, his networks destroyed, and Abu Zubaydah is solely interested in addressing his health issues and recovering from a long period of detention.

To the extent that he has awareness of and concern for the political plight of Palestinians, he completely and without reservation condemns the use of violence as a means of political progress. That condemnation and that core belief apply to the suffering of all, whether Palestinian or Israeli or anyone else. Expressing concern for the death and destruction of Gaza is not support for terrorism or extremism or anyone else, as such views have been stated in various terms by numerous high-ranking Americans, including the President of the United States.

~~CUI~~

With age comes the opportunity to observe the trajectory of political fortunes, the impact of violence over the long term and the power of democratic change. Abu Zubaydah's view now is that violence is not an answer to the problems of the oppressed, and he disclaims and disavows any interest in pursuing liberation or political advancement through violent means.

We also welcome the Board's call for information regarding any potential receiving countries that could sufficiently mitigate any threat to the interest of the United States, and I will address that today.

2017 File Review

This board held a file review in 2017, and in the detainee profile prepared for that session, the Board recognized that Abu Zubaydah showed a "high level of cooperation with the staff at Guantanamo, and has not committed any disciplinary infractions since 2012." This profile was not accompanied by allegations that his good behavior was hiding bad motives.

02 FEBRUARY 2017

GUANTANAMO DETAINEE FILE REVIEW

Detainee ISN: GZ-10016

Detainee Name	Zayn al-'Abd Din Mohammed, variant Zain ul-'Abidin
Detainee Aliases	Abu Zubaydah, Abu Munir, Abu Zubair, Hani, Musharraf, Tareq, Muhammad Husayn, Daud
Nationality	Palestinian
Date of Birth	12 March 1971
Arrival at Guantanamo	6 September 2006

Zayn al-'Abd Din Mohammed, a.k.a. Abu Zubaydah, (GZ-10016) built a mujahidin facilitation network that he ran for several years and facilitated the travel of operatives to Afghanistan and on to destinations abroad, including Europe and North America. Zubaydah probably served as one of Usama bin Ladin's most trusted facilitators, playing a key role in al-Qa'ida's communications with supporters and operatives abroad and closely interacting with al-Qa'ida's second-in-command at the time, Abu Hafsa al-Masri. Zubaydah has continued to show a high level of cooperation with the staff at Guantanamo, serves as an intermediary between the detainees in his cell block and Guantanamo staff and has not committed any disciplinary infractions since 2012.

~~CU~~

As far as I have been made aware, that record of cooperation and compliance holds true today.

2019-20 Subsequent Full Review

Note that Abu Zubaydah's detainee profile dated 27 September 2019 explains that he broke from Usama bin Ladin because Abu Zubaydah did not share bin Ladin's goal of attacking the United States. It also notes that Abu Zubaydah was focused on Israel's role in the treatment of Palestinians, and we will address that directly, but we assure the board that while Abu Zubaydah shares the concerns of many regarding the political and humanitarian status of Palestinians, he has zero intention to engage in any way—physical, financial, political, or otherwise—in supporting armed hostilities, and he disavows and condemns in the strongest terms the tactics employed by Hamas fighters on October 7, 2023. He will agree to conditions to be put in place after his release so that the United States can have assurances from the country where he is relocated that these conditions are being followed to the letter.

27 SEPTEMBER 2019

~~CONFIDENTIAL//PROSECUTION PRIVILEGED~~

GUANTANAMO DETAINEE PROFILE

Detainee ISN: GZ-10016

Detainee Name	Zayn al-'Abd Din Mohammed, variant Zain ul-'Abidin
Detainee Aliases	Abu Zubaydah, Abu Munir, Abu Zubair, Hani, Musharraf, Tareq, Daud
Nationality	Palestinian
Date of Birth	12 March 1971
Arrival at Guantanamo	September 2006

Zayn al-'Abd Din Mohammed, a.k.a. Abu Zubaydah (GZ-10016), started training militants in 1989 and built a mujahidin facilitation network that he ran from 1994 to 1997 recruiting, vetting, and facilitating the travel of operatives to Afghanistan, Europe, and North America. Zubaydah probably served as one of Usama Bin Ladin's most trusted facilitators as early as the mid-1990s, although he never swore bay'ah to Bin Ladin because of his primary focus on attacking the US, while Zubaydah wanted to attack Israel for its treatment of Palestinians.

We would also like to address the previous finding of this body which remarked on a lack of remorse for his role in training and facilitating large number of extremists:

~~CU~~

~~CUI~~Unclassified Summary of Final Determination

Date of Final Determination	Detainee Name	Detainee ISN
05 MAR 2020	Zayn al-Ibidin Muhammed Husayn	10016

The Periodic Review Board, by consensus, determined that continued law of war detention of the detainee remains necessary to protect against a continuing significant threat to the security of the United States.

In making this determination, the Board considered that regardless of his claim that he was not a formal member of al Qaida, his past involvement in jihadist activity to include probably serving as one of Usama bin Ladin's most trusted facilitators and his admitted abilities as a long-term facilitator and fundraiser for extremist causes.

Additionally, detainee's lack of remorse for his extensive role in training and facilitating large numbers of extremists, continued habit of viewing certain persons and countries as his enemies, and personal attributes and beliefs that make him susceptible to reengagement.

I wish to clarify that today, Abu Zubaydah confirms that he does not share extremist views; he is moderate in his system of religious beliefs, has engaged productively and with mutual respect with members of the secretariat staff, the convening authority, and others. Importantly, I can speak from first-hand experience in affirming that he has developed strong professional relationships on the legal team with men and women of diverse ethnic, racial, and religious backgrounds, which is completely incompatible with the kind of fundamentalist and/or extremist beliefs that would make him a threat to the United States.

2021-23 Subsequent Review

At the subsequent review, held in 2021, the Board did not find materially distinct circumstances, and in 2023 determined simply as before that "continued law of war detention of the detainee remains necessary to protect against a continuing significant threat to the security of the United States" without providing further analysis or consideration.

Date of Final Determination	Detainee Name	Detainee ISN
26 June 2023	Zayn al-Ibidin Muhammed Husayn	10016

On July 15, 2021, the Periodic Review Board conducted a subsequent hearing on the detainee. After Review Committee action and pursuant to Executive Order 13567, it was determined that continued law of war detention of the detainee remains necessary to protect against a continuing significant threat to the security of the United States. The detainee will receive reviews in accordance to Executive Order 13567 as soon as practicable.

~~CUI~~

CUI

2024 Review

For the current review, the detainee profile again notes that Abu Zubaydah “probably” served bin Ladin, but again notes that the two broke over bin Ladin’s primary focus on attacking the U.S., noting that Abu Zubaydah instead wished to target Israel.

5 JANUARY 2024

CONFIDENTIALITY PROVISIONS PRIVILEGE

GUANTANAMO DETAINEE PROFILE

Detainee ISN: GZ-10016

Detainee Name	Zayn al-'Abd Din Mohammed, variant Zain ul-'Abidin
Detainee Aliases	Abu Zubaydah, Abu Munir, Abu Zubair, Hani, Musharraf, Tareq, Muhammad Husayn, Daud
Nationality	Palestinian
Date of Birth	March 1971
Arrival at Guantanamo	September 2006

~~REASON~~, Zayn al-'Abd Din Mohammed (GZ-10016; a.k.a. Abu Zubaydah) started training militants in 1989, and from 1994 to 1997, built a mujahidin network by recruiting, vetting, and coordinating the travel of operatives to Afghanistan, Europe, and North America. Zubaydah probably served as one of Usama Bin Ladin's most trusted facilitators as early as the mid-1990s, although he has stated that he never swore bay'ah to him because of Bin Ladin's primary focus on attacking the US and that Zubaydah had wanted to attack Israel for its treatment of Palestinians.

As noted above, whatever concerns Abu Zubaydah may have had in the past, he firmly disavows violence, terrorism, and extremist activities, and expresses deep remorse for any terrorist activities or harm to civilians that his past activities have supported. Going forward, he is committed to pursuing a life of peace and non-engagement.

(c) ABU ZUBAYDAH'S OUTLOOK AND PROSPECTS HAVE CHANGED MEANINGFULLY

Related legal proceedings

In 2015, Abu Zubaydah received a judgment in his favor from the European Court of Human Rights in a case brought against Poland, alleging Poland's complicity with violations of the European Convention on Human Rights that occurred during Abu Zubaydah's pre-Guantanamo

CUI

~~CUI~~

detention and interrogation.¹ In addition to non-monetary relief, the judgement awarded Abu Zubaydah EUR 130,000 plus interest. He is willing to use those funds for his resettlement and the enforcement of appropriate security measures.

In 2018, the same court awarded Abu Zubaydah a judgment against Lithuania for its role in his pre-Guantanamo detention and interrogation. The court again awarded Abu Zubaydah principally EUR 130,000 in damages and costs, plus interest.² He is willing to make the same commitment with respect to the use of these funds.

At the time of the initial award in the case against Poland, Abu Zubaydah was included on a U.N. sanctions list, and thus he could not receive or direct a transfer of the judgment amount. In 2017, Abu Zubaydah applied to the relevant U.N. committee, which sat as part of the U.N. Security Council, for removal from its Sanctions List.

On December 26, 2017, the UN Security Council removed Abu Zubaydah from the List.³ In doing so, it relied upon the findings of a U.N. ombudsperson, who assessed that “over 15 years have passed since [Abu Zubaydah] was captured [now 22], and . . . he no longer holds the extremist views that he exhibited at the time [of his capture]...⁴

There are three takeaways from these proceedings that I offer for the Board’s consideration. First, Abu Zubaydah has funds available to him that will support him in a post-Guantanamo life, which he envisions to be somewhere safe, quiet, and removed from the events of his pre-Guantanamo life that led him into armed conflict and ultimately Guantanamo.

Second, we believe that there is room to argue that the spirit of those rulings, the European Convention on Human Rights, and best practices under other international obligations all support the view that both [REDACTED] have a role to play in receiving Abu Zubaydah, and have the security protocols and relationships with the United States to support meaningful threat

¹ See Case of Husayn (Abu Zubaydah) v. Poland, Application No. 7511/13 (Eur. Ct of Human Rights, Feb. 2, 2015) ¶¶ 567, 571, 572.

² See Case of Abu Zubaydah v. Lithuania, Application No. 46454/11 (Eur. Ct of Human Rights, May 31, 2018) ¶¶ 689, 692-3.

³ <https://press.un.org/en/2017/sc13144.doc.htm>

⁴ Annex to the Committee’s decision—Summary of the analysis, observations, and recommendations set out in the Ombudsperson’s report at 5-6.

~~CUI~~

~~CUI~~

mitigation of the kind that the Board and other stakeholders would need to see in considering Abu Zubaydah's release. These countries [REDACTED] have the capacity and relationship with the United States to carry out these measures.

Finally, in recognizing that Abu Zubaydah has changed sufficiently from his time of capture to mitigate any threat he would pose to the United States, the Board would be joining the assessment of the U.N. Security Council, which decided in 2017 that he no longer merited inclusion on its sanctions list because he no longer presented a risk of extremist violence. After twenty-two years of detention, the world has moved on. Abu Zubaydah has moved on. The United States can safely move on as well.

Family connections and personal outlook on post-Guantanamo life

Beyond this, I would note two very significant changes for the Board's consideration. In recent years, Abu Zubaydah has reconnected with his family in a significant way. He has regular video chats with his father and mother, multiple siblings, nieces and nephews. He is particularly close with his brother, [REDACTED] who is a doctor [REDACTED] and has expressed serious commitment to supporting Abu Zubaydah upon his release. [REDACTED] has been holding and managing the funds awarded by the European Court of Human Rights on behalf of Abu Zubaydah, and will continue to do so in the hopes that they can be used to assist to support Abu Zubaydah upon his eventual release. Abu Zubaydah, for his part, has welcomed this reconnection and views his family as the cornerstone of his post-Guantanamo life.

This is particularly notable because Abu Zubaydah's family was always opposed to his involvement in armed conflicts and extremist activities. When Abu Zubaydah became active in conflicts in Pakistan, he did so over his family's objections, and effectively broke contact with them. The recent rekindling of his family relationships is consistent with his rejection of extremist activity and violence, and his wish to lead a post-Guantanamo life of peacefulness and family.

Finally, as noted previously Abu Zubaydah is willing to explore release with significant security guarantees, including monitoring, appropriate limitations on any public advocacy, publishing, and legal activities. In addition, he will consider appropriate limitations on his use of funds awarded in the court judgments referenced above, so the Board can be assured that money

~~CUI~~

~~CUI~~

will go to his living and medical care only. Thus, in addition to the typical security guarantees involving the receiving country, we would explore appropriate controls on his public-facing, legal, and financial activities. We would welcome the Board's feedback on the utility of further information related to [REDACTED] and additional countries that could be candidates for his post-Guantanamo life.

~~CUI~~