
UNITED STATES)

v.)

DAVID MATTHEW HICKS)
a/k/a Abu Muslim al Austraili)
a/k/a Muhammed Dawood)

CHARGES:
CONSPIRACY;
ATTEMPTED MURDER BY AN
UNPRIVILEGED BELLIGERENT;
AIDING THE ENEMY

David Matthew Hicks (a/k/a Abu Muslim al Austraili, a/k/a Muhammed Dawood) is a person subject to trial by Military Commission. At all times material to the charges:

JURISDICTION

1. Jurisdiction for this Military Commission is based on the President's determination of July 3, 2003 that David Matthew Hicks (a/k/a Abu Muslim al Austraili, a/k/a Muhammed Dawood, hereinafter "Hicks") is subject to his Military Order of November 13, 2001.
2. Hicks' charged conduct is triable by a military commission.

BACKGROUND

3. Hicks was born on August 7, 1975 in Adelaide, Australia.
4. On or about May 1999, Hicks traveled to Tirana, Albania and joined the Kosovo Liberation Army (KLA), a paramilitary organization fighting on behalf of Albanian Muslims. Hicks completed basic military training at a KLA camp and engaged in hostile action before returning to Australia.
5. While in Australia, Hicks converted from Christianity to Islam. On or about November 1999, he traveled to Pakistan where, in early 2000, he joined a terrorist organization known as Lashkar e Tayyiba (LET), or "Army of the Righteous."
 - a. LET is the armed wing of Markaz Dawa al Irshad (a/k/a Markaz Jamat al Dawa), a group formed by Hafiz Mohammed Saeed and others.
 - b. LET's known goals include violent attacks against property and nationals (both military and civilian) of India and other countries in order to seize control of Indian-held Kashmir and violent opposition of Hindus, Jews, Americans, and other Westerners.
 - c. Starting around 1990, LET established training camps and guest houses, schools, and other operations primarily in Pakistan and Afghanistan for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of India and other countries.

- d. Since 1990, members and associates of LET have conducted numerous attacks on military and civilian personnel and property in Indian-controlled Kashmir and India.
 - e. In 1998, Saeed called for holy war against the United States after U.S. missile attacks against terrorist training facilities in Afghanistan killed LET members.
 - f. On April 23, 2000, in a bulletin posted on the internet, LET claimed that it recently killed Indian soldiers and destroyed an Indian government building, both in Indian Kashmir.
6. After joining LET, Hicks trained for two months at LET's Mosqua Aqsa camp in Pakistan. His training included weapons familiarization and firing, map reading and land navigation, and troop movements.
 7. Following training at Mosqua Aqsa, Hicks, along with LET associates, traveled to a border region between Pakistani-controlled Kashmir and Indian-controlled Kashmir, where he engaged in hostile action against Indian forces.
 8. On or about January 2001, Hicks, with funding and a letter of introduction provided by LET, traveled to Afghanistan to attend al Qaida terrorist training camps.
 9. On or about early December 2001, Hicks was captured near Baghlan, Afghanistan.

GENERAL ALLEGATIONS (AL QAIDA)

10. 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.
11. Usama bin Laden is recognized as the *emir* (prince or leader) of al Qaida.
12. 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 for the purpose of, *inter alia*, forcing the United States to withdraw its forces from the Arabian Peninsula and in retaliation for U.S. support of Israel.
13. Al Qaida operations and activities are directed by a *shura* (consultation) council composed of committees, including: political committee; military committee; security committee; finance committee; media committee; and religious/legal committee.
14. Between 1989 and 2001, al Qaida established training camps, guest houses, and business operations in Afghanistan, Pakistan, and other countries for the purpose of training and supporting violent attacks against property and nationals (both military and civilian) of the United States and other countries.

15. In August 1996, Usama bin Laden issued a public "*Declaration of Jihad Against the Americans*," in which he called for the murder of U.S. military personnel serving on the Arabian peninsula.
16. In February 1998, Usama bin Laden, Ayman al Zawahiri, and others, under the banner of "International Islamic Front for Fighting Jews and Crusaders," issued a *fatwa* (purported religious ruling) requiring all Muslims able to do so to kill Americans – whether civilian or military – anywhere they can be found and to "plunder their money."
17. On or about May 29, 1998, Usama bin Laden issued a statement entitled "The Nuclear Bomb of Islam," under the banner of the "International Islamic Front for Fighting Jews and Crusaders," in which he stated that "it is the duty of the Muslims to prepare as much force as possible to terrorize the enemies of God."
18. 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; the attack against the USS COLE in October 2000; and the attacks on the United States on September 11, 2001.

CHARGE 1: CONSPIRACY

19. David Matthew Hicks (a/k/a Abu Muslim al Australi, a/k/a Muhammed Dawood, hereinafter "Hicks"), in Afghanistan, from on or about January 1, 2001 to on or about December 2001, willfully and knowingly joined an enterprise of persons who shared a common criminal purpose and conspired and agreed with Muhammad Atef (a/k/a Abu Hafs al Masri), Saif al Adel, Usama bin Laden, and other members and associates of the al Qaida organization, known and unknown, to commit the following offenses triable by military commission: attacking civilians; attacking civilian objects; murder by an unprivileged belligerent; destruction of property by an unprivileged belligerent; and terrorism.
20. In furtherance of this enterprise and conspiracy, Hicks and other members of al Qaida committed the following overt acts:
 - a. On or about January 2001, Hicks, with funding and a letter of introduction provided by LET, traveled to Afghanistan to attend al Qaida terrorist training camps. Upon arriving in Afghanistan, Hicks went to an al Qaida guest house, where he met Ibn Sheikh al Libi, a top-ranking al Qaida member, and others. Hicks turned in his passport and indicated that he would use the *kunya*, or alias, "Muhammed Dawood."
 - b. Hicks then traveled to and trained at al Qaida's al Farouq camp located outside Qandahar, Afghanistan. In al Qaida's eight-week basic training course, Hicks trained in weapons familiarization and firing, land mines, tactics, topography, field movements, and basic explosives.

- c. On or about April 2001, Hicks returned to al Farouq and trained in al Qaida's guerilla warfare and mountain tactics training course. This seven-week course included: marksmanship; small team tactics; ambush; camouflage; rendezvous techniques; and techniques to pass intelligence to al Qaida operatives.
- d. While Hicks was training at al Farouq, Usama bin Laden visited the camp on several occasions. During one visit, Hicks questioned bin Laden regarding the lack of English al Qaida training material; accepting bin Laden's advice, Hicks began to translate the training camp materials from Arabic to English.
- e. After Hicks completed his first two al Qaida training courses, Muhammad Atef (a/k/a Abu Hafs al Masri), then the military commander of al Qaida, summoned and interviewed Hicks about his background and the travel habits of Australians. Saif al Adel, then the deputy military commander of al Qaida, was also present at this interview. At the conclusion of this meeting, Muhammed Atef recommended Hicks for attendance at al Qaida's urban tactics training course at Tarnak Farm.
- f. On or about June 2001, Hicks traveled to Tarnak Farm and participated in this course. A mock city was located inside the camp, where trainees were taught how to fight in an urban environment. Training also included: marksmanship; use of assault and sniper rifles; rappelling; kidnapping techniques; and assassination methods.
- g. On or about August 2001, Hicks participated in an advanced al Qaida course on information collection and surveillance in an apartment in Kabul, Afghanistan. This course included "practical application" where Hicks and others conducted surveillance of various targets in Kabul, including the U.S. and British embassies, and submitted reports.
- h. Following the information collection and surveillance course, Muhammed Atef again interviewed Hicks, and asked if he would be willing to undertake a "martyr mission," meaning an attack wherein Hicks would kill himself as well as the targets of the attack.
- i. At an al Qaida guest house in Qandahar, as well as at al Qaida training camps and other locations in Afghanistan, Hicks received instruction from al Qaida associates on their interpretation of Islam, the meaning and obligations of *jihad*, and other topics.
- j. On or about early September 2001, Hicks traveled to Pakistan to visit a friend. After watching television footage of the September 11, 2001 attacks on the United States, Hicks returned to Afghanistan to rejoin his al Qaida associates.
- k. Arriving in Qandahar, Afghanistan, Hicks reported to Saif al Adel, who was assigning individuals to locations where they were to fight alongside other al Qaida associates against U. S. and Coalition forces. Given a choice of three

different locations, Hicks chose to join a group of al Qaida fighters near the Qandahar Airport. Armed with an AK-47 automatic rifle, ammunition, and grenades, Hicks traveled with his al Qaida associates to the Qandahar Airport.

- l. On or about October 2001, after Coalition bombing operations commenced, Hicks joined an armed group outside the airport, where they guarded a Taliban tank.
- m. After guarding the tank for approximately one week, Hicks, still armed with the AK-47 rifle, ammunition, and grenades, traveled with an LET acquaintance to Konduz, Afghanistan, arriving around November 9, 2001. There, he joined others, including John Walker Lindh, who were engaged in combat against Coalition forces.

CHARGE 2: ATTEMPTED MURDER BY AN UNPRIVILEGED BELLIGERENT

21. David Matthew Hicks (a/k/a Abu Muslim al Australi, a/k/a Muhammed Dawood), in Afghanistan between on or about September 11, 2001 and December 1, 2001, as a perpetrator, co-conspirator, member of an enterprise of persons who shared a common criminal purpose, an aider or abettor, or some combination thereof, attempted to murder divers persons by directing small arms fire, explosives, and other means intended to kill American, British, Canadian, Australian, Afghan, and other Coalition forces, while he did not enjoy combatant immunity and such conduct taking place in the context of and associated with armed conflict.

CHARGE 3: AIDING THE ENEMY

22. David Matthew Hicks (a/k/a Abu Muslim al Australi, a/k/a Muhammed Dawood), in Afghanistan between on or about January 1, 2001, and December 1, 2001, intentionally aided the enemy, to wit: al Qaida and the Taliban, such conduct taking place in the context of and associated with armed conflict.