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Date: 17 Heshvan 5765  
1 November 2004

AdmD RJS 2628/04

**Military Court in Ofer**  
**Minutes of the Hearing before a Sole Judge**

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**Before the honorable judge: Major Adrian Agasi**

**The Applicant:**

**Commander of the IDF forces in Judea and Samaria**

**by the Military Prosecutor's Office: Captain Ittay Pollack**

**The Respondent: \_\_\_\_\_ Awad, ID. No \_\_\_\_\_ / Budrus – Present in court**

**Place of detention: Ofer**

**Defense Counsel: Attorney Tamar Pelleg**

**Translator: Sergeant Rami Hason**

**Court reporter: Corporal Ayya Navah**

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**The judge opens the hearing and identifies the detainee.**

**The Hearing**

The court clarifies to the detainee that an administrative detention order for the period 28 October 2004 to 27 February 2005 was issued against him.

**The court clarifies to the detainee the nature of the proceeding and his rights pursuant to the Order Regarding Administrative Detentions (Temporary Order) (Judea and Samaria) (No. 1226), 5748 – 1988.**

**Prosecutor:** The prosecution requests the court to approve the administrative detention order and the period of detention set forth therein. The order is based on intelligence information. I request that this material should be presented only to the court, and that its contents should not be revealed to the detainee or other persons, in order to protect the sources and to prevent harm to the security of the region and persons in the region.

There is no unrestricted material.

Date: 17 Heshvan 5765  
1 November 2004

AdmD RJS 2628/04

**Prosecutor:** The detainee has been in detention since 21 October 2004. He has a past [involving security infractions], dating from 1997-1998, when he was detained for activity on behalf of Hamas.

**Detainee:** I was detained from March 1997, and from March 1998, and from 1993 to 1996 I was a member of Hamas, and during that period I was in Sudan.

Q: Why would a person detained on the 21<sup>st</sup> of the month have an administrative detention order issued against him six days later?

A: I do not have a record here of any special reasons.

Q: What is the date of the request to detain him administratively?

A: The request was finally approved on 26/27 October.

Q: What was written in the administrative detention order?

A: I have no indication about the process of detention, only of the date.

Q: How much time did the GSS [General Security Service] request?

A: It will be set forth confidentially.

**The Court:** After reviewing the administrative detention request form, I see that the GSS requested the military commander to administratively detain the detainee for three months.

Q: Can you confirm that the material on which the order is based does not attribute any activity to my client?

A: There is no violent activity by the detainee himself.

Q: Can you confirm that no clear claim of incitement to a clear case of violence is made against my client?

A: No, I cannot confirm.

Q: Does the confidential material indicate that my client incites violence?

A: Yes, among other things.

Q: Does the violence mentioned have any connection to firearms?

A: Will be provided in the confidential material.

Q: I request that you confirm that he had no connection with firearms, and that only words were involved.

Date: 17 Heshvan 5765  
1 November 2004

AdmD RJS 2628/04

A: Will be provided in the confidential material.

**Defense Counsel:** I request that the court review the material to obtain an answer.

**The Court:** A review of the material indicates that the detainee is not alleged to have a connection with firearms.

Q: Can you confirm that the fence built in Budrus is mentioned in the confidential material?

A: Yes.

Q: Is it maintained that my client is not particularly happy with the fence?

A: Yes.

Q: Is it maintained that he belongs to the local committee against the fence?

A: Will be provided in the confidential material.

Q: Is it maintained that he took part in demonstrations?

A: Among other things.

Q: Was he arrested during the demonstration? I contend that he wasn't.

A: It is not mentioned.

Q: Is it mentioned that some of the activity against the fence is conducted together with Jews? I contend that it is?

A: Will be provided in the confidential material.

**Defense Counsel:** I request an answer.

**The Court:** The prosecutor will answer the question.

A: I have no indication on the point.

Q: Are there names of Jews in the confidential material?

A: No.

Q: What is the military commander's ground for signing the order, which is a month longer than what was requested?

A: What I can say is, the assistant to the military commander, who is a lawyer, recommended to him that, on the basis of the material, a four-month order could be approved. The further grounds will be set forth in confidential material.

Date: 17 Heshvan 5765  
1 November 2004

AdmD RJS 2628/04

Q: Did he mention any particular detail in the confidential material?

A: Yes, there is reference to the confidential material.

Q: Does the word political appear in the material?

A: No.

**Defense Counsel:** I submit the declaration of a person called \_\_\_\_ Mahar, who speaks of separation in Budrus village. The strong emphasis of both the committee and the individual is the firm decision, in effect, not to take any violent action whatsoever in the struggle against the fence, and not only not to put up any opposition in principle “ \_\_\_\_ Awad is one of the members of the committee who insisted not to use force at any of the demonstrations, and it was he who always called for restraint in the demonstrations, and always requested that force should not be used. The detention of Mr. \_\_\_\_ Awad is a kind of attempt to destroy the hope of the method that he fostered.” I refer to the decision: the main point is that it involves a person who, in non-violent political ways, and largely together with Jews, has conducted a political campaign to reduce the harm, as far as possible, that the fence causes to the farm lands of his village. My client does not belong in jail. If people like my client are in jail, the people [who] will lose hope, or [who] have already lost hope would control public opinion on the ways residents of the West Bank [should] fight their struggle. My client is needed in his village for security reasons, which are grounds for his immediate discharge.

**Detainee:** I am 43 years old. I underwent ten operations to my leg. I have six children. I only want to provide a livelihood for my family. It is not my fault that I was near the olive tree that was uprooted, and that, rather than erecting a fence, my friends and I managed to set up bridges of trust between me [ie, us] and the Jews. One of them is the wise man [Rabbi] Arik, who came from the United States and joined us in the processions, showing to the world that coexistence is possible between us and the Jews. I prevented the use of violence, because violence is liable to disrupt or terminate the procession. I would also take part in a procession in which people from abroad took part, and I said the same thing to GSS officials. We also told them that we cannot stop the construction of the fence, but that it should be far from the olive groves.

**The Court:** How long ago did the fence activity take place?

A: For a year already we have been conducting processions during the day, and never at night.

**Detainee:** Once, a few children stole some army equipment from a military Hummer, so I went to the mosque and used its loudspeaker to urge them to return the equipment. We knew that



Date: 17 Heshvan 5765  
1 November 2004

AdmD RJS 2628/04

**Given and announced today, 1 November 2004, in the presence of the parties.**

*[signed]*

Judge