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### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—Continued

Mr. WITTMAN. Mr. Chairman, I rise in strong opposition to this amendment. As we debate detainee transfer policies today, and we try to determine the appropriate path forward, a picture stands out in my mind from a recent trip to Afghanistan. It is the face of a young marine who had just been killed by insurgents in Kandahar and whose photo was recently displayed on his unit's "Hero Wall."

As I picture his face, I am reminded that the decisions we make here today directly impact our troops serving in Afghanistan and their families, particularly when we make decisions about detainee transfers.

We know that the reengagement rate for former detainees is approximately 25 percent, but percentages are not informative in and of themselves. It helps to understand the facts supporting them.

One fact we should keep in mind that is included in that 25 percent figure is Mullah Abdullah Zakir, internment serial No. 8 who was captured in Afghanistan in 2001, sent to Gitmo and released in 2007. Zakir is one of the most feared insurgents in Afghanistan and directs the Taliban's combat operations throughout the country.

The Acting CHAIR. The time of the gentleman has expired.

Mr. McKEON. I yield the gentleman an additional 30 seconds.

Mr. WITTMAN. It should be no surprise then that he has been targeting U.S. forces in Helmand province and has been directly linked to the deaths of at least 11 marines.

This story highlights why it is time to strengthen the detainee transfer review process, not weaken it. It is time that Congress took a leadership role in shaping how transfers are negotiated

and determining whether they are appropriate. This amendment takes away the strength to make sure that we are doing the right thing.

It is time to move forward, not backward, and I hope you join me in opposing this amendment.

Mr. SMITH of Washington. I reserve the balance of my time.

Mr. McKEON. Mr. Chairman, at this time I am happy to yield the balance of my time to my friend and colleague, the gentleman from Virginia (Mr. FORBES).

The Acting CHAIR. The gentleman is recognized for 3 minutes.

Mr. FORBES. Mr. Chairman, we stood on this floor about a year ago when the minority was the majority, and the language they want to change now is the language they approved. In fact, the then-chairman of the Armed Services Committee, Mr. Skelton, said this: "... we are in a position to accept this motion. I just wish to point out that there is no difference between the Democrats and the Republicans when it comes to fighting terrorism. I agree with the motion."

But, Mr. Chairman, what a difference a year makes because there is not just some difference; there is a huge gap now between the Democrats and the Republicans on fighting terrorism. And I have never heard so many red herrings, the red herrings of all of these people who have been tried here. Very few of them were detained under the authorization to use military force. Most of them were arrested and detained based on law enforcement, a huge difference.

They raised the questions: Can we hold them here? Sure.

They asked: Can we get a conviction? Possibly.

But the real question is why would we want to bring them here to trial. There is no prosecutor who knows what he is talking about, no investigator who is going to walk in here today and

tell you that it is easier to convict one of these detainees by bringing them to the United States and trying them in an Article III court than it is to do it in a military tribunal.

And the reason is, they ask: Who wants it? I tell you who really wants it, the ACLU. Why do they want it? Because they don't want convictions. They have already said they want all of the detainees released. And they know the moment they hit U.S. soil, they will pick up a host of constitutional rights they don't now have. They know it will be harder to get conviction, and they also know this: that one of the trials that took place in AMF, the defendant was acquitted of over 200 different counts.

When, Mr. Chairman, is someone going to stand up for the rights of the victims of terror here who asked this question: When are we going to start getting prosecutions?

My good friend from New Jersey talked about the fact oh, we want to let our prosecutors make these decisions. We want to let them go forward unfettered. What he didn't point out to you was that was happening. The prosecutors, a special prosecutor working under the current law at that time had worked for over 18 months, over 56 motions. That prosecutor would have told you he would have had guilty pleas in 6 months, and this administration not only stopped him, not only took away his rights, but did away with the entire investigation and started from zero; and they have been 2½ years and haven't prosecuted.

Mr. Chairman, the question for us today is very, very simple. We have got military tribunals. Nobody is truly questioning the constitutionality of those military tribunals. The question for us is when are we going to prosecute them. The other question is let's keep the terrorists out of the United States and let's vote against this amendment.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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