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Convicted for refusing to fight Bush's war "Guys like Camilo expose the truth"

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THE FIRST U.S. soldier to go public with his refusal to fight Bush's war in Iraq was convicted of desertion on May 21. Staff Sgt. Camilo Mejia was sentenced to a bad conduct discharge and one year of hard labor.

Mejia participated in the invasion of Iraq. After a two-week furlough last October, he refused to return to his unit because he believed the war was unjust. "I have no regrets--not one," said Mejia, before the jury handed down his sentence. I will take it because I will go there with my honor, knowing I have done the right thing," he said.

Several weeks before his trial, Mejia said, "The justification for this war is money, and no soldier should go to Iraq and give his life for oil. I have witnessed the suffering of a people whose country is in ruins and who are further humiliated by the raids, patrols and curfews of an occupying army. My experience of this war has changed me forever."

TOD ENSIGN is a lawyer and the director of Citizen Soldier, a support organization for GIs. He was part of Camilo's legal team, directing the political and media aspects. He spoke with *Socialist Worker's* ERIC RUDER the day after the verdict.

CAN YOU describe Camilo's trial?

GIVEN THAT Camilo was tried in a special rather than general court, he received the maximum punishment. But in my view, an important struggle was won when the decision was made not to take Camilo to general court, because that would have meant the possibility of a five-year sentence and a dishonorable discharge, which is virtually impossible to upgrade.

A bad conduct discharge is bad, but a dishonorable discharge is the worst. He didn't receive what he could have received for desertion if they had chosen to go to the most powerful court.

So that was a victory, because they chose to appear somewhat less than fully draconian. Yesterday, I picked up a copy of the base newspaper--they're run by civilians who sell all the ads, but the Army gives them all the free editorial content.

They have a ledger in there for the week--a police blotter. And this week, at Fort Stewart, which is a pretty big base, out of the crimes they list, most of which are completely petty, like failure to use a turn signal, they list 17 desertions or absents without leave (AWOL) in one week. For an active infantry base, I would consider that a significant number of desertions and AWOLs for a week.

They keep presenting this picture--as part of the Rumsfeld-Bush "big lie"

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technique--that everything's fine, the army's morale is just top notch, and that soldiers are behind this war. Of course, guys like Camilo show that that's not true.

DOES THE military want this conviction to intimidate other soldiers who may share Camilo's criticisms?

CERTAINLY. HE was tried by a jury composed of career infantry commanders. These are colonels and majors, and these people run infantry units. And they're sitting there looking at a guy who's very credible, very intelligent, very sincere, very conscientious. And they're thinking that this is their worst fear--that in their unit, they have this problem, those 17 AWOL this week.

Are they going to allow this guy to walk free, or just give him a bad conduct discharge and no jail time, or just three months? Are they going to do that? Given their institutional interests--that is, to field an infantry--the answer is no.

THE MILITARY court didn't allow your defense team to present its case. Why not?

WE OFFERED former Attorney General Ramsey Clark, who in the last 30 years has also had extensive experience in international human rights practice, as a witness. In fact, he represented Capt. Larry Rockwood about six years ago--who was the Army captain who tried to report U.S. war crimes committed in Haiti. He was also put before a court martial and charged with several offenses.

Another witness we had was Prof. Jules Lobel, who's from the University of Pittsburgh Law School and vice president of the Center for Constitutional Rights, one of the leading civil rights litigation organizations in the country. Prof. Frances Boyle was our third witness, who has authored a couple books that are definitive treatments of how to raise international legal defenses in criminal cases.

These were three people who probably have as much knowledge about international law and how it would apply to this case as any three people in this country, and yet the judge would only allow them to testify very briefly--and only with respect to the government's motion to suppress all of our evidence.

The government came in very aggressively in advance of the trial and filed for a motion that would restrict evidence. And the judge, after hearing just 15 minutes or so, stopped their testimony, saying that he'd heard enough. The next day, he granted the government's motion that no evidence could be offered or even courtroom reference could be made to international law defenses or duties that Mejia might have had under international law.

But in this area, Mejia's case is particularly strong. Mejia was at Al Asad--which is another detention center like the Abu Ghraib prison--where he witnessed the abuse and sleep deprivation of detainees in May 2003. The detention center was controlled by three interrogators, who were in civilian clothes and operated with pseudonyms. One of them called himself "Rabbit," and one called himself "Whitey."

They were in charge and telling the troops which detainees "to soften up," which meant 24 to 48 hours of sleep deprivation. They would take unloaded pistols and pull the trigger with the gun on the detainee's temples. They would pound the walls with sledge hammers, and they would constantly wake them and make them walk around.

Mejia was very upset by this. Right now, the government is trying other soldiers for criminal offenses related to torture, and here's a guy who is saying that he would not go back and do that. Yet he is being tried for his refusal to return. This is a clear paradox.

On the one hand, the Army is trying people for the acts that Camilo refused to participate in. And international law regarding prisoners is very clear. There's no question that this treatment by U.S. troops is illegal. You can read about it every day in the newspapers, and no one denies that these are violations of the Geneva Conventions.

That's Mejia's claim--that he saw this going on and feared that if he went back after his leave, that he would be forced to do that again. And given the fact that he had already witnessed this, this was a reasonable supposition. It's not just hypothetical. He had been there and seen it. This makes his claim very strong, but with a military judge, this obviously doesn't carry very much weight.

The other piece of what Mejia saw is something that's now coming out in newspaper accounts--the *New York Times* had a story about 10 days ago--about the role of private contractors. They've identified at least two of these outfits that had Pentagon contracts to conduct interrogations.

This is another gross violation of international law when it comes to abuse and torture. At the Nuremberg trials after the Second World War, some German soldiers were charged with turning over Jews and other prisoners to Ukrainians, who were used for interrogation purposes. They were charged and convicted for mistreatment that occurred while the detainees were in Ukrainian custody.

The Geneva Conventions were written in such a way that you can't turn people over to a third party and escape your responsibility for proper treatment. Rumsfeld says stuff like, "Hey, they weren't soldiers. They were just working by the hour." What? Do they get \$5 a fingernail?

This is really dark and cynical, and in my view, a real step backwards--employing these kinds of mercenaries for torture. Ramsey had a very good point about this. We have a wonderful opportunity, he said, because this country is under severe criticism throughout the rest of the world, where no one believes that we accept the rule of law.

We have an opportunity here, he told the judge, to begin to change that, to say that we will listen to international law, and we should begin with this case. But judge didn't allow us to offer any evidence.

It isn't just that the evidence didn't sway the jury--he wouldn't allow the jury to hear a word of this evidence. He cut us off before we even had a chance to present our case, much less to prove it. That's just contemptuous treatment.

EVEN BEFORE the torture revelations, Camilo had opposed the war on the grounds that it was immoral, a war for oil to benefit corporations. Was he able to express any of this?

DURING HIS time on the stand, he was questioned about the basis of his views. But the judge also had ruled from the bench that he would not be allowed to reprise his conscientious objector application, and that's where he had put a lot of those statements.

So when Mejia began down that road, the prosecutor objected, and the judge upheld the objection, saying that Mejia was instructed not to talk about the nature of his CO application or its contents. So a little of this got out, but certainly not what we had wanted.

SO THE judge and prosecutor wanted to restrict the proceeding just to the question of whether Mejia returned to service after his leave was up.

EXACTLY. THEY wanted to prove that on October 16, he didn't appear at

Baltimore airport to get on his flight back to Iraq. To them, that's the case--and of course, that's not surprising if you understand the military's mindset. That's the problem--he didn't get on the plane. Nothing else matters.

What led him to that decision, what he saw in Iraq, what he experienced, what he felt--it's all irrelevant. And also whether international law claims have any merit--irrelevant.

Kangaroo court is not too strong a statement. It was a trumped-up, closed, pinched-off hearing. People who enter into that system, if they have any knowledge of it, know that this is the likely outcome.

The problem is that you have no other forums--you can't go to federal court and say that we're not going to get a fair hearing here. The military has total authority over these cases.

There is an automatic appeal in the military. They have an intermediate appellate court, and they also have a higher appellate court. They are actually composed of civilian judges, and they sit like kind of a mini-Supreme Court in the military--and these are avenues we will pursue.

There was one other issue in the case. And that was the issue of Camilo not being a citizen. There's been a treaty for about 150 years between the U.S. and Costa Rica, and Camilo is a citizen of Costa Rica as well as Nicaragua. There are treaties like this with about 15 different countries, and the treaty provides that neither country's citizens shall be subject to compulsory service in the other nation's military.

We have a fairly strong legal argument that once they extended Camilo past his April 2003 discharge date--which they do to thousands of soldiers because of stop-loss orders--this was clearly compulsory military service. And under the terms of the treaty, he could not be subjected to it. They had to release him from the military.

But the judge ruled that when you enlist, you agree to be bound by the possibility of stop-loss orders in a national security crisis. The language now exists in the enlistment agreement--their lawyers have gone in there and cleaned that up. The judge ruled that the treaty doesn't apply because Camilo waived his rights under the treaty.

I think if we can get the resources--and I'm not sure we can--to get into federal court, we might be able to get a federal judge in habeas corpus proceedings to take a look at that. The other thing that would help is if Costa Rica--and they may be willing to do this--asserts itself on behalf of Camilo.

In fact, during the First World War, there were many soldiers who were released under these treaties. Legally speaking, this is a pretty straightforward and winnable issue, but the judge here refused to consider it.

After Camilo's trial, all the mainstream papers across the country are running these pictures of Camilo being dragged out of court--you'd think the guy was a mass murderer. They've got him manacled, with a six-foot-four guard on each side of him holding a pistol. And the final kicker is that there's a soldier standing off to the side who looks like he's applauding. I'm glad that this dangerous criminal has been put where he belongs!

WHAT DOES Camilo's case say about the opposition to war and occupation among soldiers?

AS I mentioned, I'm surprised by the desertion numbers listed in the base paper--

those are higher than I expected. Obviously, not every one of those people is a Camilo Mejia. Some of them may have left because their girlfriend threatened to leave with their kid, or their mother had emphysema and can't get to work anymore--these are some of the reasons that people go AWOL.

But I'm sure that among those 17, there are people who in various ways came to the conclusion that this really isn't something that they want to do--even if it's not as fully formed a political motivation as Camilo's. What I'm saying is that there's latent opposition, and there's active opposition--just like during the Vietnam War.

Sometimes, people romanticize the Vietnam GI movement, but having been part of it and having talked to hundreds of GIs over the years, some of those GIs were hanging in coffee houses to get dates--or whatever. All I'm saying is that resistance takes many forms.

At this point, the potential for it is there, and the advantage that we have today is that because of the Internet, among other things, we are much more able to communicate and spread ideas.

The downside is that there really is no existing structure out there that allows soldiers to feel supported--to feel part of something larger than themselves--which is necessary to political consciousness and political activism. That's a real deficit.

The coffeehouse movement sprang up mostly after the Tet Offensive in 1968, and it did offer--in its limited way--a place for GIs to go, a certain amount of counseling and support, and even legal help. And of course, it fed them ideas--literature tables, bookstores and all kinds of stuff.

But that does not exist now. There's nothing at Fort Stewart that would even begin to offer GIs that. That's something that the antiwar movement, such as it is, has to address, and we have not done that.

Citizen Soldier is in New York, and I get a lot of calls from AWOLs--or more often, AWOLs' families--who want to know what they can do. And the problem is that these are tough fights. This case took a lot of resources and energy and people, and it was eventually lost, which was unfortunate, but he didn't go to general court, and that was a victory, as I said.

The resistance is there, the potential is there, and the GIs themselves are there, voting with their feet. But from where I sit, that's as far as it goes. These people can drift back into Fort Stewart and other bases, and they're prosecuted at different levels. Some of them are maybe given a slap on the wrist and allowed to return to their units, and others are kicked out in special courts, and we don't have any links to them.

And we haven't in any way formed a movement that can be called a GI movement. There are many individuals trying to do so, and maybe there are nascent formations on some bases--I don't know, and I don't want to present myself as an expert on this point. But having been here in Fort Stewart for the past week and seeing what I've seen, we have a ways to go.

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