

US pilot who killed twenty on ski gondola acquitted

David Walsh
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Relatives of the victims and ordinary Italians reacted with outrage to the acquittal of an American marine pilot whose plane, flying too low and faster than rules permitted, cut through a cable car line at an Italian ski resort last February and caused the deaths of 20 people. A US military jury at Camp Lejeune, North Carolina found Capt. Richard Ashby, 31, not guilty of involuntary homicide and manslaughter Thursday after a 17-day court martial.

Evidence produced at the trial indicated that Ashby, whose craft was supposed to stay at least 1,000 feet above the ground, struck the cable at about 365 feet (111 meters). At the moment of impact he was flying at 621 miles per hour (1,000 kph), well above the 517 miles per hour (832 kph) permitted.

Italian prosecutors had wanted four US airmen, including Ashby and co-pilot, Capt. Joseph Schweitzer, and three officers from the US base at Aviano to face charges of manslaughter and endangering the safety of transport. An Italian judge rejected that attempt last July, ruling that the US courts, under a NATO agreement, had sole jurisdiction over the men.

Relatives of those who died in the gondola at Cavalese last year denounced the acquittal of Ashby. Klaus Stampfl, the son of one of the victims, called it "a shameful verdict." Stampfl had followed the case in the US and was horrified. "Sometimes I felt that they were almost having fun during the hearings. It was certainly not a serious trial, not as serious as it would have been in Italy." His mother was one of three Italians who died, along with two Poles, seven Germans, five Belgians, two Austrians and one Dutch citizen.

Margaretha Anthonissen, a Belgian who lost her 24-year-old daughter told the press, "It gives us the feeling they were killed a second time.... It will be worse than before. It will be more difficult because of

the idea they were cut off the earth without any reason, without a justification, just like that. And no one is taking responsibility." Rita Wunderlich told journalists, through a translator: "I buried my husband a year ago. Today was his second funeral." She added: "Every normal person would have said he's guilty. It's only the members of the jury and his defense attorneys who think he was innocent, and I can't understand that."

A lawyer for the February 3 Committee for Justice, an organization that had advocated a trial in Italy, commented: "It is a disgraceful verdict. Let it be a lesson for those who expected justice, rapidity and severity from American justice. Twenty useless victims have been condemned to a death without justice, as we had foreseen for months." Mauro Pissan, head of the Italian Greens, called the not-guilty decision "a scandalous verdict that offends those 20 dead. Injustice has been done. The homicidal behavior of the American military has been rewarded. They played war, they killed 20 people and they were let off."

Prime Minister Massimo D'Alema, the former Communist Party leader, now on a visit to the US, was muted in his response. "It leaves us worried because that was an incident where we expected that justice would be done," he said. D'Alema indicated he would bring up the issue in discussions with Bill Clinton at the White House Friday.

D'Alema's interior minister, Rosa Russo Jervolino, described the verdict as "absolutely unacceptable." The head of the Communist Refoundation party, one of the fragments of the former Italian Communist Party, Fausto Bertinotti, declared, "This is not only the acquittal of a pilot, this is the acquittal of an entire system." An Italian daily paper, *La Repubblica*, entitled its lead article "The impunity of the powerful." The mayor of Aviano, from whose airbase US planes took

off to attack Bosnian Serbs in 1995, called it proper for Italians to ask their government to ban foreign military training flights in that country.

Journalists describe the mood in Cavalese as one of "shock and deep disappointment." Local residents claim that the February 3, 1998 disaster was an accident waiting to happen. US military pilots have flown too low and too fast for years, and continue to do so. According to a BBC report, "Residents say the loss of 20 lives has not stopped what they claim is a pattern of reckless low-level flying."

Relatives of the victims are apparently planning to take their case to an international court. Lawyers for the seven German families are asking for \$5 million damages for each victim. Washington gave the town \$20 million to build a new cable car, but the US military has rejected any further claims.

During the court-martial, prosecutors presented evidence that Ashby flew recklessly and performed an illegal barrel roll shortly before his EA-6B Prowler, a Vietnam-era combat jet--known as the "sky pig"--used to jam enemy radar, severed the ski lift cable. Ashby also took a video camera on board the flight. He is charged with obstruction of justice for having removed and apparently destroyed the video.

One of the prosecutors, Lt. Col. Carol Joyce, told the courtroom, "Whether because of arrogance or just plain cocky, Capt. Ashby chose to ignore the rules. We know this by the way he planned this flight, briefed this flight, flew this flight."

Asked at the trial about Ashby's 360-degree "flaperon" roll, his former commander, Lt. Col. Richard Muegge, who was removed from his post after the incident, said: "It's not very safe. It doesn't take much to lose altitude. It can be disorienting. It's not commonplace, and it's never been condoned." Muegge also suggested operating a video camera on board put the flight at risk: "It's not illegal, but it's an air crew coordination problem ... it didn't seem to be a real smart thing to do."

Ashby's lawyers asserted that the ski lift was not marked on the maps the pilot was using. But Muegge testified that it was common knowledge that there were ski areas in the Alps and said it was understood that 1,000 feet was the lowest safe flying altitude.

Another witness, paraglider Marco Vanzo, said the jet appeared to come directly at him as he stood in a

mountain meadow about 400 feet above the valley floor.

The evidence at the trial suggested clearly that Ashby, on his final Prowler mission before transferring to fighter pilot school, was intentionally "joy riding" on the day of the accident.

The eight-man jury that acquitted Ashby was composed of senior officers and included three pilots with experience in jets and helicopters.

The brutality and indifference in regard to human life exhibited by the US military in this incident is of a piece with its role as international bully. The American government, and more generally, the "American model," is increasingly viewed with disgust by much of the world's population.



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