

WSWS interview with defense attorney

John Walker Lindh sentenced to 20 years

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On October 4, United States District Judge T.S. Ellis III, of the Eastern District of Virginia, sentenced John Walker Lindh to 20 years in a federal penitentiary. With credits for good behavior and time already served, Lindh will be released in 16 years, two months.

The sentence was imposed under an agreement reached on July 15 requiring Lindh to plead guilty to one count of providing support to the Taliban. In exchange, the Justice Department dismissed nine other counts, including conspiracy to commit murder and terrorism, charges carrying multiple life sentences. Lindh also admitted to carrying explosives, which allows the government to add another 10 years to the maximum 10-year sentence on the Taliban count.

The agreement was filed just as a weeklong hearing was to commence on whether Lindh's statements to US authorities in Afghanistan were inadmissible in court because of government coercion. As a result, the evidence of Lindh's abuse at the hands of the military before the FBI questioned him was never presented. At the Camp Rhino Marine base in Afghanistan, the then-20-year-old Californian was kept for more than two days strapped naked to a stretcher in a freezing container with a two-week-old untreated bullet wound.

At the sentencing hearing, Lindh tearfully read a prepared apology recounting how he wound up as a Taliban soldier after going first to Yemen to study Arabic and then to Pakistan to attend an Islamic school. He said he arrived in Afghanistan on September 6, 2001 and decided to join the Taliban after hearing reports of "numerous atrocities committed by the Northern Alliance against civilians ... massacres, child rape, torture and castration."

Lindh alluded to how he was caught in the shifting tides of US geopolitical interests. "I saw the war between the Taliban and the Northern Alliance as a continuation of the war between the mujahedin and the Soviets. I knew that the mujahedin had been supported by the United States. In addition, I knew that the Northern Alliance continued to be funded and armed by the Russian government throughout

the 1990s and up until last year," Lindh continued.

Finally, Lindh condemned terrorism. Speaking of Osama bin Laden, he said, "His grievances, whatever they may be, cannot be addressed by acts of injustice and violence against innocent people in America. Terrorism is never justified and has proved extremely damaging to Muslims around the world. I have never supported terrorism in any form and never would."

Lindh concluded, "I went to Afghanistan with the intention of fighting against terrorism and oppression, not to support it."

The next speaker at the hearing was Johnny Spann, the father of CIA agent Johnny Michael Spann, who was killed at the Qala-i-Janghi fortress near Mazar-i-Sharif during the massacre of hundreds of Taliban prisoners. Spann senior called the sentence too lenient. The CIA agent's father added details about his son's death that have never been made public, claiming Spann had been shot in the back of the head, execution style, in a "house" inside the fort. This conflicts with press reports that Taliban prisoners beat Spann to death during their revolt.

Ellis responded that the prosecution had no evidence linking Lindh to Spann's death. The only evidence linking the two was a videotape of Spann and a still unidentified agent, "Dave," threatening Lindh with death for not responding to their questions—a clear violation of the Geneva Conventions on the treatment of prisoners of war.

Ellis, clearly enjoying his moment in the spotlight, rambled on for over an hour. The judge displayed the same crudeness and prosecution bias that he exhibited at earlier hearings. At one point he had denigrated Islam, declaring that he "wouldn't worship any god who promises a bordello in heaven."

Ellis repeatedly praised the US Constitution and lectured Lindh about the protections it provided him. In fact, the plea agreement was reached in part because Ellis had signaled that he was going to deny Lindh a fair trial. He was prepared to rubber-stamp the government's trampling on Lindh's rights when it denied him access to his attorneys and used

techniques bordering on outright torture to extract statements from him.

The WSWS discussed the violations of Lindh's rights in an interview with George Harris, one of Lindh's principal defense attorneys. Harris stated that he and Jim Brosnahan were involved "from day one" when news reached Lindh's parents the evening after he emerged from the Qala-i-Janghi basement on December 1, 2001.

Despite contacting the government immediately and demanding access to their client, "For 55 days Lindh was essentially held incommunicado," Harris said. The attorney continued, "Despite our requests and efforts we were unable to meet with him until he was brought back to the Eastern District of Virginia on January 23. We were finally able to meet with him for a half an hour just before his first court hearing."

Harris explained that while they were waiting to meet with their client, Attorney General John Ashcroft condemned Lindh at a press conference announcing the filing of charges. Harris called Ashcroft's comments "inappropriate both under the rules of the court and according to the rules of prosecutorial ethics.... It was particularly prejudicial given the fact that it was during the period of time that we had no access to our client, and really no basis to respond to the attorney general. His characterization of John Lindh as a 'terrorist' and 'someone who chose terrorism' has been discredited by the plea agreement, which dismisses the conspiracy to murder US nationals and all the terrorist charges."

Harris also criticized the prejudicial coverage in the media during the period in which Lindh was denied right to legal counsel. "Before any facts were known, there were panels being assembled on talk shows to discuss whether the proper punishment should be life imprisonment or the death penalty," he said. "There was a definite rush to judge John Walker Lindh; for the media to be the judge and jury as soon as he was discovered in Afghanistan, which was very prejudicial to his ability to get a fair trial. As time went on there were a number of journalists who appreciated that the case was not that simple and was not the case the attorney general had described in his initial news conferences or the case that many had reported in those first days. The problem we faced is that by that time these stories were being carried, they were appearing on page 10 or page 12."

Harris confirmed the importance the prosecutors placed on the provision in the plea agreement compelling Lindh to withdraw any claim of mistreatment at the hands of US authorities. "The government made clear on Friday that its offer to resolve the case had to be accepted before the suppression hearing began on Monday. I think that one thing that motivated the government to resolve the case was

certainly their reluctance to have the evidence presented about how John Lindh was treated while he was in US military custody."

Harris explained how the plea agreement was reached against the backdrop of the government's use of so-called "enemy combatant" status to jail two US citizens—Yassir Hamdi and Jose Padilla—indefinitely, without charges or access to lawyers. "It was the government's position that even if John Lindh had been acquitted, or had been convicted and served his time, that it still would have been within the government's power to declare him an enemy combatant and continue to detain him." In other words, Lindh pled guilty to supporting the Taliban in part because the US government was threatening to imprison him as an "enemy combatant" even if a jury were to acquit him at trial.

Harris added that there was also concern that a public trial would disclose the US government's own ties to the Taliban if Lindh argued that he was being subjected to selective prosecution. "Our research showed that the US government made substantial payments to the Taliban in 2001, during the months leading up to September 11—the last payment was \$43 million in June—for opium poppy eradication, which the Taliban did fairly successfully," he said. "Now, according to reports, that situation has changed dramatically. In addition, there was evidence that the US was supporting the efforts of Unocal to cooperate with the Taliban to build a natural gas pipeline through Afghanistan. Meetings were being held for that purpose right up to September 11. There was also a telephone company interested in Afghanistan. John Lindh was the only person prosecuted for providing services to the Taliban, however."

Harris summed up: "This was an important case because it was the first test of whether a person accused of terrorism can get a fair trial in the United States at this time. With the plea agreement we do not get a definitive answer to that question."



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