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Canada's Immigration and Refugee Board ruled last Thursday against granting US war resister and Army "deserter" Jeremy Hinzman political refugee status—a decision that, if upheld by Canada's courts, will in all likelihood result in Hinzman being deported to the US and jailed for his opposition to the US's illegal invasion of Iraq.

Last week's ruling sets an ominous precedent for other US military personnel seeking asylum in Canada. About a half-dozen war resisters have applied for refugee status in Canada and a much larger number were reportedly awaiting the outcome of Hinzman's case before deciding whether to file their own refugee claims.

That said, the ruling against Hinzman was hardly surprising given the hostile attitude of the Canadian government and corporate media. When Hinzman's case first came before the refugee board, federal government lawyers intervened and prevailed on the adjudicator to exclude any consideration of the legality of the Iraq war from the determination as to whether Hinzman should be granted asylum. The press meanwhile pilloried Hinzman, saying he had no right to dissent from US Army orders, since, in search of a means of financing his education, he had volunteered for military service.

The 26 year-old Hinzman served in Afghanistan. Then in January 2004, shortly before his unit of the Army's 82nd Airborne Division was deployed to Iraq, he came to Canada. Hinzman only took the decision to flee after the army denied his application for conscientious objector (CO) status and military authorities had harassed him in retaliation for his CO request.

Hinzman and witnesses called on his behalf presented Canada's refugee board with evidence that US forces in Afghanistan have murdered and abused civilians. A former Marine, who was decorated for his service in Iraq, gave riveting testimony about the pressure he

came under from his superiors and fellow soldiers to shoot at unarmed Iraqi men, women and children.

The ruling against Hinzman has been applauded by Canada's corporate media. In its lead editorial last Friday, the *Globe and Mail*, proclaimed that "The board reached the only sensible conclusion it could." Disingenuously, the *Globe* claimed that "The board weighed every argument Mr. Hinzman presented, no matter how weak or irrelevant."

In fact the board and the government made a mockery of refugee law by denying Hinzman the right to present evidence as to the illegal character of the Iraq War—a war that was justified on claims, since admitted by Washington to have been false, about the Iraqi regime having weapons of mass destruction and ties to al-Qaeda, and which saw the Bush administration invoke the novel and patently illegal doctrine of pre-emptive war.

Elsewhere, Canada has contended that soldiers and other state agents should not only be protected from victimization for refusing to participate in government crimes, but that they have an obligation to refuse, if at all possible, to implement their superiors' orders if they involve human rights abuses.

But in Hinzman's case these precedents were thrown overboard.

Quite simply the government was determined to suppress any discussion of the legality of the US invasion and occupation of Iraq, for fear it would cut across its attempts to forge a closer economic and geopolitical partnership with the US. Unquestionably, the Bush administration would have denounced a Canadian judicial body hearing arguments as to the legality of the Iraq war as an unacceptable intrusion into US affairs. Second, Ottawa is well aware of how indefensible the Bush administration's position on the war is. In attacking Iraq, Washington trashed decades of international jurisprudence—jurisprudence the US long promoted as a means of underpinning a US-led

international order—and baldly reasserted the principle of might makes right. Last but not least, there is the experience of the Vietnam War, when tens of thousands of US draft dodgers and deserters found asylum in Canada. By intervening in the case and prevailing on the adjudicator to exclude any discussion of the illegal character of the war, the Liberal government stacked the cards against Hinzman and thereby ensured that Canada will not serve to encourage opposition to the war within the US military.

The 70-page decision that adjudicator Brian Goodman rendered on Hinzman's refugee claim is in keeping with his earlier decision on the admissibility of evidence concerning the war's legality. That is to say, it is a travesty.

Goodman gave short shrift to Hinzman's argument that his view of his military service changed as a result of his experiences in Afghanistan and as he learned of the actions of the US military in Iraq and Afghanistan.

Goodman further states that the punishment Hinzman faces upon return to the US, up to five years in prison, does not constitute 'cruel and unusual' treatment—a decision that again could only be rendered by overlooking the illegality of US military actions.

In strict conformity with the pronouncements from the White House, Goodman found that "There is no evidence in front of the panel that the US, as a matter of policy or practice is indifferent to alleged violation of international human rights law in Iraq." He is nevertheless compelled to add, "That is not to say that instances of serious violations of international humanitarian law, for example the mistreatment by military personnel of prisoners of war, as in the notorious Abu Ghraib prison, have not occurred."

At other points in his ruling, Goodman appears intent on impugning Hinzman's motives. Noting that in seeking conscientious objector status Hinzman indicated that he might be willing to accept a non-combat role, Goodman writes, "Surely an intelligent young man, like Mr. Hinzman, who believed the war in Iraq to be illegal, unjust and waged for economic reasons, would be unwilling to participate in any capacity, whether combatant or non-combatant." The unstated suggestion is that Hinzman was acting out of cowardice.

In truth Hinzman has shown genuine courage, first in seeking CO status in the face of fierce opposition from

the military brass and then in deciding to escape to Canada rather than participate in an unjust and illegal war.

Significantly, Goodman all but completely ignored the evidence that Hinzman presented of the retribution the US military exacts on those who seek CO status. "The US," declared Goodman, "has in place military regulations that allow for both exemption from military service and for alternative non-combatant service for persons who can invoke genuine reasons of conscience."

Last Friday's ruling places Hinzman in peril of being returned to US military authorities, but the matter is far from closed. His lawyer, Jeffry House, has said he will appeal the decision to a federal court. Goodman's ruling excluding evidence as to the illegality of the war is likely to figure large in that appeal.

Hinzman, who is in Toronto with his wife and two year old child, continues to work as a bicycle courier and says he remains hopeful he will be allowed to stay in Canada. Under last Thursday's ruling, Hinzman's wife and child were also denied asylum in Canada.

While Hinzman's case has been precedent-setting, he is but one of more than 5,000 US military personnel who have deserted in the last year—a figure that indicates that the widespread opposition to the Bush administration and its criminal policies in the Iraqi and US populace is impacting on the rank and file of the US military.



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