Spanish court orders arrest of US soldiers for war crime

Warrant issued in killing of cameraman José Couso

Bill Van Auken
21 October 2005

A Spanish judge issued an international warrant Wednesday calling for the arrest and extradition to Spain of three US Army personnel in connection with the April 8, 2003 killing of television cameraman José Couso in Iraq.

The arrest warrant stems from the shelling on that date of Baghdad's Hotel Palestine, where over 100 international journalists were staying during the US invasion of Iraq. A tank round fired into the hotel's 15th floor fatally wounded Couso, a 37-year-old cameraman for the Spanish network Telecinco, and Taras Protsyuk, 35, a Ukrainian cameraman who worked for the British news agency Reuters. The two were rushed to a Baghdad hospital but died within hours. Several other journalists were also wounded in the attack.

Charged in connection with the incident are Lieut. Col. Philip DeCamp, commander of the Fourth Battalion of the Third Infantry Division; Capt. Philip Wolford, company commander of the tank unit that fired the fatal round; and Sgt. Shawn Gibson, the noncommissioned officer who fired the tank's cannon into the hotel.

Judge Santiago Pedraz of Spain's High Court issued the warrant, saying that the three were wanted for questioning on charges of murder and war crimes under the Geneva Conventions. Conviction on these counts would result in 20 years imprisonment.

The judge stressed that the warrant was required because of the total refusal of Washington to cooperate in the Spanish investigation into the killing. Ordering their arrest, he said, "is the only effective measure to ensure the presence of the suspects in the case being handled by Spanish justice, given the lack of judicial cooperation by US authorities."

The Spanish court issued two formal requests. The first, in April 2004, asked the US departments of state, Defense and Justice to share the results of any US investigations into the incident. The second requested that a Spanish judicial commission be allowed to take testimony from the three accused military personnel on US soil. Washington never bothered to reply to either appeal.

The attack on the Hotel Palestine took place as US troops were storming Baghdad. Journalists who had been covering the war from the Iraqi capital had been advised to move to the hotel, evacuating the Hotel Rashid, which US military officials had warned could be subject to attack.

After the shelling of the hotel, Sergeant Gibson and Captain Wolford claimed that they had fired on the building because they believed that an Iraqi spotter was using it to direct Iraqi resistance fire against the US invaders.

The company's tanks flew a battle flag with a skull and cross swords together with their logo, "The assassins."

Journalists inside the hotel were shocked by the attack. First, it was well known to the US military that the media were using the hotel. Second, it was one of the most identifiable buildings on Baghdad's skyline, clearly marked as Hotel Palestine. And finally, scores of journalists were clearly visible on both the roof and the balconies of the hotel observing and filming the movement of American forces into the city.

The Pentagon crafted a totally different justification for the attack. At Central Command's Doha headquarters, Brig. Gen. Vincent Brooks told the media that the tank had responded after US forces came under fire directed from the hotel's lobby. When reporters asked why, if this were the case, the shell was lobbed into the 15th floor, Brooks responded that he "may have misspoken on exactly where the fire came from."

The US military stuck to this pretext, however, with Centcom issuing a statement saying that American soldiers had come under "significant fire from the Palestine Hotel in Baghdad."

Independent investigations and the testimony of many of the journalists in the hotel at the time have exposed this explanation as a lie.

"There is simply no evidence to support the official US position that US forces were returning hostile fire from the Palestine Hotel," the Committee to Protect Journalists (CPJ) concluded following an exhaustive investigation based on the testimony of at least a dozen members of the media who were witnesses to the attack. "It conflicts with the eyewitness testimony of numerous journalists in the hotel," the report added.

The CPJ and others concluded that the shelling of the hotel was not deliberate, but rather an act of gross negligence involving the unnecessary and disproportionate use of force—a violation violated international law.

The question remains, however, why did the administration and Pentagon feel compelled to concoct a lie about taking fire from the hotel?

There is compelling evidence that US forces launched deliberate attacks on the independent media in Iraq. The shelling of the Hotel Palestine was the third such attack on that day in April 2003. Earlier, deliberate US air strikes were carried out against the offices of both the Al Jazeera and Abu Dhabi television networks. At Al Jazeera, Jordanian journalist Tareq Ayyoub was killed and a cameraman was wounded.

This attack, moreover, followed a strike carried out by US forces against the Al Jazeera office in Kabul during the invasion of Afghanistan in 2001.

Exerting complete control over information has become a fundamental US military doctrine. In the Iraq invasion, this took the perverse form of "embedding" US reporters in the invading units, turning them for the most part into journalistic cheerleaders for aggression and slaughter.

Prior to the invasion, the Pentagon and White House had issued a series of warnings and thinly veiled threats, advising any journalists that were not embedded to clear out of Iraq.

Washington had a definite interest in intimidating and suppressing any independent coverage of the war. It wanted to sanitize the US onslaught, denying the American public images of both the carnage against Iraqi civilians as well as the deaths of American soldiers.

The tank attack on the Hotel Palestine took place in the wake of bloody

© World Socialist Web Site

engagements in which large numbers of Iraqis had been killed indiscriminately.

Since the US invasion, 68 journalists, the bulk of them Iraqis, have died. In a number of cases, these killings were carried out by US forces under conditions in which it strains credibility to believe that they did not know they were firing on members of the media.

This is widely acknowledged within the media itself. Last February, CNN Executive Vice President Eason Jordan was forced to resign over remarks he made at the World Economic Forum in Davos, Switzerland about the "deliberate" killing of journalists by US forces, including the shelling of the Hotel Palestine. The right wing launched a ferocious campaign against him, and CNN quickly caved.

On the same day that the warrant was issued in the Couso case, sources in the French Foreign Ministry revealed that an investigation had concluded that French cameraman Fred Nérac, until now listed as missing, had died as a result of US fire near Basra in March 2003. He was killed together with ITN reporter Terry Lloyd and a translator. Another French cameraman wounded in the attack charged that US troops fired on their marked media vehicles to "wipe out troublesome witnesses."

José Couso's family had carried out a sustained international campaign to demand that his killers be brought to justice, organizing regular demonstrations outside the US embassy in Madrid for the past two-and-a-half years.

After the judge's ruling, David Couso, the slain man's brother, told the Spanish news agency EFE that the warrant is "a very positive step by Spanish justice." He added, "We hope that it is the first step, that it is firm and won't be in vain, and that it will demonstrate that the Geneva Conventions are enforced and not just a worthless piece of paper."

"Why does the US military continue to be immune to international organizations? Why can others be judged for crimes against humanity, but not them?" David Couso asked. "We hope that the case of my brother will set a precedent."

The Spanish government took a cautious approach to the warrant, distancing itself from the judge's actions, while asserting that it would not have any effect on US-Spanish relations.

In what may indicate a different behind-the-scenes approach, however, Spanish prosecutor Pedro Rubira issued an appeal calling for the court to withdraw the warrant. "Spain lacks jurisdiction to investigate causes of death in a military conflict and death of a Spanish citizen resulting from US military gunfire," he asserted.

The court, however, based itself on Spanish law, which holds that a crime committed against a Spanish citizen overseas may be prosecuted in Spain if the country where the crime took place fails to act.

Justice Minister Juan Fernando López Aguilar said that the government's attitude was one of "respect and prudence" toward the ruling, adding that "in no case should there be deduced any type of political consequence from this decision by a judicial authority."

President José Luis Rodríguez Zapatero declared, "We have a good relation with the United States, and judicial cooperation functions," a claim that is disproved by the content of the warrant itself.

There seems little doubt, however, that the court's actions will provoke Washington's wrath. Relations between the governments have remained tense since Zapatero complied with his campaign pledge and pulled Spanish troops out of Iraq in April 2004.

The previous right-wing Popular Party government of President José María Aznar had uncritically accepted the US version of the killing. Ana Palacio, foreign minister at the time, described the Pentagon report covering up the incident as "objective." The government rebuffed angry protests by journalists, the family and the political opposition.

After Zapatero's election, the new Socialist Party (PSOE) government officially condemned the killing and issued José Couso a posthumous medal recognizing his work. The Zapatero government, however, has attempted to smooth out tensions with Washington in recent months and clearly did not welcome the prospect of a new frontal confrontation over the US aggression in Iraq.

Washington has continued to stonewall all demands for a public investigation and accountability for the killing. A US State Department spokesman claimed that a report that the Pentagon gave to the Spanish government in 2003 had established that the troops had "acted in accordance with the rules of engagement." He continued by acknowledging that the death of the cameraman was a "tragedy" and noting that Washington had already "expressed its condolences to the family."

The significance of this invocation of "rules of engagement" should not be lost. It is indeed the case that those who killed José Couso were following such rules that were set by the White House and the Pentagon leadership in launching an unprovoked war of aggression. It was from this most fundamental war crime that all subsequent crimes have followed.

Included in these "rules" was an unprecedented drive to control the press and harness it as an instrument of war propaganda, a project with which the vast bulk of the US media cooperated fully, lining up to be "embedded" with the invading forces. Those who failed to collaborate in this fashion in many cases were seen as hostile forces.

The Spanish warrant poses disturbing questions for the US military. The three who are named are now wanted men, unable to leave the country for fear that they could be arrested. Under conditions in which the Pentagon is facing a mounting crisis over recruitment and there is growing concern that the Iraq war will provoke an exodus of professional soldiers and officers, this cannot be a welcome development.

More fundamentally, the Spanish court's action raises the larger question—who is responsible for the crimes carried out in Iraq, including the murder of José Couso, the deaths of more than 100,000 Iraqis and nearly 2,000 US soldiers?

The assault on the Palestine Hotel two-and-a-half years ago flowed from the decision to invade and conquer Iraq in order to advance the geo-strategic interests of US imperialism. Bush, Cheney and all those in the US government and ruling establishment who conspired to carry out this illegal war should be indicted and tried for war crimes.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site