

Iraq war resister convicted in Germany

Increasing numbers of US soldiers refuse to serve in Iraq

Stefan Steinberg
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On Tuesday, March 6, US soldier Agustin Aguayo was convicted on charges of desertion by an American military court in Würzburg, Germany. He was sentenced to eight months' detention in a military prison. He was also given a dishonourable discharge from the army and stripped of pay and benefits. The US army prosecutor had originally pleaded that Aguayo be locked away for two years.

Aguayo, a 35-year-old American citizen from Los Angeles, was born in Guadalajara, Mexico. In 2002, he signed up for military duty and was one of many Mexican Americans who were deployed to Iraq. In the course of his basic training, however, Aguayo realised he was opposed to war, and in February 2004, applied for a discharge from the army on the basis of being a conscientious objector.

His appeal was ignored, and in the same year, he was sent to serve a one-year tour of duty as a combat medic to Tikrit in Iraq. Since 2004, Aguayo has continually sought permission for a discharge from the army on the basis of his opposition to the war.

When his unit was ordered to return to Iraq for a second tour of duty in early September last year, Aguayo decided he could not obey the order with a clear conscience. After nearly three years of struggling with the US Army to be recognised as a conscientious objector, Agustin Aguayo went absent without leave on September 1, 2006, to avoid his unit's deployment to Iraq. One day later, on September 2, 2006, he turned himself over to the military authorities.

Instead of facing a court-martial, however, his commanding officers insisted that he would be transferred to Iraq—even if army personnel had to forcefully put him on the plane—i.e., with shackles or handcuffs. Aguayo then fled his military base in Germany, and with the help of German anti-war activists, returned to California. He remained in hiding until September 26, 2006, and then, following a press conference in Los Angeles, once again turned himself over to military authorities.

Aguayo explains the reasons for his refusal to deploy to Iraq on his website:

"I also oppose war because I have seen first-hand the

direct result of deployments to war zones. As a result of Operation Iraqi Freedom II, I have seen many veterans whose lives have been shattered. Many men came back with missing parts, and countless physical and emotional scars, such as Post Traumatic Stress Disorder. I have personally seen my comrades come back to commit suicide, drink themselves to death, and develop a strong addiction to drugs. It is obvious to me that these men's lives were destroyed by war. What participation in war does to our own soldiers is another reason why war is fundamentally immoral and wrong.

"In my last deployment, I witnessed how soldiers dehumanise the Iraqi people with words and actions. I saw countless innocent lives which were shortened due to the war. I still struggle with the senselessness of it all—Iraqi civilians losing their lives because they drove too close to a convoy or a check point, soldiers being shot by mistake by their own buddies, misunderstandings [due to the language barrier] leading to death."

At the same September press conference, Augustin's wife Helga explained why she fully backed her husband. She said of the war: "It changed him, and not in a good way. I've seen my husband die, little by little. The greatest lesson he could teach [our daughters] is to stand up for what you believe in, and if you don't, you hurt the people around you."

Aguayo has become the latest in a growing list of US soldiers who are facing trials and courts-martial for refusing to serve in Iraq. Recently, Lt. Ehren Watada, 29, became the first US officer to be tried for refusing to obey a command to return to Iraq.

In his defence, Watada argued he was merely following his constitutional rights to oppose fighting in a war he regarded as illegal. The Japanese American described the US invasion and occupation of Iraq as "an illegal and unjust war...for profit and imperialistic domination." Watada's attorney, Eric Seitz, had sought to defend his client on the basis of the Nuremberg Principles—i.e., that soldiers have the duty to disobey unlawful orders in the case of an illegal and unjust

war. Following a mistrial, Watada faces a new proceeding in mid-March.

Also last month, US Army Specialist, Mark Wilkerson, 23, received a seven-month jail sentence for desertion.

The move by American military authorities to press ahead with a series of courts-martial against army personnel takes place against a background of increasing discontent and plummeting morale amongst US troops. Drawn primarily from working class families, many recruits join as the only alternative to poorly paid work or unemployment in the US itself.

Having signed up on the basis of limited deployments in a war that they were told was being won and would soon end, many of these soldiers are now being called upon to take on extra tours of duty or denied the opportunity of returning home. Increasing numbers of soldiers are questioning the legality and justification for the war and their presence.

Michael Sharp, director of the Military Counseling Network, a non-profit organisation in Germany that helps American soldiers seeking to leave the army, says that there has been a dramatic increase in applications for assistance. "Since Bush's ['surge'] speech, we've been swamped with new calls," he says. Last month, the group took on 30 new clients, three times its previous average.

Predictably, the US Department of Defence says it does not keep figures on the number of American soldiers members currently going absent without leave from units stationed overseas. However, a strong indication of their increasing frequency, according to *Spiegel Online*, is the number who receive "Chapter 11" discharges at the main processing centres in the US (Fort Sill, Oklahoma, and Fort Knox, Kentucky). These discharges are for those going missing overseas and who turn themselves in, or those arrested back home.

Between October 2002 and September 2005, the two centres recorded an annual average of 1,546 such discharges. Last year, the number grew to 1,988, or more than five per day. No figures are yet available for 2007.

According to the War Resisters Support Campaign in Canada, as many as 200 to 300 US soldiers may have headed north across the border to escape deployment. Growing opposition to the war from inside the ranks of the army is also expressed in a petition to the US Congress that has been supported by nearly 1,600 active soldiers and which reads in part: "Staying in Iraq will not work and is not worth the price."

Agustin Aguayo is now the first US soldier to be tried and convicted in connection with the Iraq war by a military court outside of US territory. The fact that the German government has been content to merely look on and make no comment on the proceedings against Aguayo taking place on

German soil is an indictment of the role of the current grand coalition (Social Democratic Party, Christian Democratic Union and Christian Social Union) and its predecessor, the SPD-Green Party coalition.

A leading German court has already declared the Iraq war to be in violation of international law. In 2005, the German federal administrative court in Leipzig passed judgement in the case of the German officer Major Florian Pfaff, who refused to obey an order following the invasion of Iraq by the US-led coalition of forces. Pfaff argued that he was not prepared to follow orders because it would involve his active support in a war he regarded to be illegal. As a result, he was demoted from major to captain, and the German army filed a criminal complaint against him for insubordination.

In its 2005 judgment, the Leipzig court referred to the United Nations charter and concluded that, in fact, the US war in Iraq was illegal. It found in favor of the German officer and reversed his demotion. In addition to judging the Iraq war illegal, the court also concluded that the charges against the German officer contravened Article 4, Paragraph 1, of the German Constitution, which guarantees the right to freedom of conscience.

Keen not to offend its transatlantic ally, both the former SPD-Green Party coalition and the current grand coalition government have ignored this judgement and continued to support Washington's war behind the scenes. Only this week, it was announced that the coalition government of Chancellor Angela Merkel had delayed the release this year of Turkish-German Murat Kurnaz from Guantánamo Bay by an additional two months. Kurnaz had already spent four and a half years in detention, although shortly after his detention, the German authorities were aware of his innocence and the US authorities had given clearance for his release.

The recent trial and conviction of US soldier Augustin Aguayo in Würzburg is yet another case that demonstrates the complicity of the German government in US war crimes and underscores the necessity for the complete removal of all American military bases and facilities from German territory.



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