

# Haditha massacre defendant pursues defamation suit against US congressman

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Last month, a federal judge ordered US Representative Jack Murtha (Democrat of Pennsylvania) to testify in a defamation suit brought against him by a Marine facing murder charges for his involvement in the 2005 massacre in Haditha, Iraq. The lawsuit, a transparent attempt to silence opposition to the war and criticism of the military, has become a cause célèbre within right-wing circles.

Frank Wuterich, a Marine sergeant who was squad leader during the incident, sued Murtha for libel and invasion of privacy last year for saying the murder of 24 unarmed Iraqi civilians in Haditha was a killing carried out “in cold blood.” Wuterich is currently charged with 17 counts of unpremeditated murder and is among the last of 12 Marines involved in the killings to face the possibility of court martial.

On September 28, Bush appointee Judge Rosemary M. Collyer of the US District Court for the District of Columbia ordered Murtha to appear in court to hand over documents related to his comments, and to explain his comments under oath. Wuterich’s attorney told the Associated Press that he wanted Murtha’s “calendars and documents related to which reporters he spoke to.”

The lawsuit is completely illegitimate from a legal standpoint. Public officials, speaking about issues of great public concern, have long been protected from such civil actions. The suit is all the more frivolous since Murtha never mentioned Wuterich or any other individual by name. Murtha’s statement was one of the rare occasions when a politician of either party has spoken truthfully about a US atrocity in Iraq.

Remarks made in an official capacity are protected from prosecution by the Speech and Debate Clause of Article I of the Constitution. The intended purpose of the clause is to prevent the executive branch from arbitrarily arresting legislators in order to prevent them from voting a certain way. The suit is being used to undermine this protection of political speech and legislative independence from the

executive branch.

Collyer questioned the scope of this protection in announcing her decision, saying, “You’re writing a very wide road for members of Congress to go to their home districts and say anything they choose about private persons and be able to do so without any liability... How far can a congressman go and still be protected?”

This position carries chilling implications for even the most timid expression of antiwar sentiment or questioning of foreign policy by public officials. In particular, the lawsuit is of a piece with efforts to stigmatize and even criminalize criticism of the military.

The entire political establishment escalated efforts to criminalize criticism of the military last month, after the liberal antiwar group MoveOn.org published a newspaper ad questioning the credibility of General David Petraeus, the top US commander in Iraq.

Along with the vast majority of Democrats, Murtha voted in favor of a congressional resolution condemning the ad and praising the patriotism of Petraeus. Like the rest of the Democratic establishment, Murtha has proven himself unwilling to defend political speech—even as he comes under attack.

If the case is allowed to go forward, it could have far-reaching legal and political implications. Any political official who denounces an atrocity by the US military could be subject to similar libel charges from the soldiers or officers involved.

Even the Bush administration Justice Department opposes Collyer’s decision and is pressing for the case to be dismissed. Top officials recognize the danger such speech liability would pose to members of the Bush administration whose public statements could be held to the same legal standard.

The comments for which Murtha is being sued were made during a May 2006 press conference in Washington, in the context of reiterating his call for the redeployment

of troops out of Iraq. After being briefed by military officials, he said ongoing internal investigations had found that Marines had killed innocents in Haditha and then sought to conceal the atrocity.

Referring to a March 2006 *Time* magazine exposé on Haditha, he told the press, “It’s much worse than reported in *Time* magazine. There was no firefight. There was no IED [improvised explosive device] that killed these innocent people. Our troops overreacted because of the pressure on them and they killed innocent civilians in cold blood.”

Murtha continued, “I understand the investigation shows that, in fact, there was no firefight, there was no explosion that killed the civilians in a bus. There was no bus. There was no shrapnel. There was only bullet holes inside the house where the Marines had gone in... they actually went into the houses and killed women and children.”

Murtha’s comments were factually correct. If the congressman is guilty of anything, it is his consistent understatement of the dimensions of war crimes committed by the US in Iraq, flowing from his own support for US domination of the Middle East.

Murtha was careful to insist that he considered to the incident at Haditha to be “an isolated incident.” From his standpoint, it was better to acknowledge the individual crime in order the better to obscure the larger crime that was its source—the invasion and occupation of Iraq.

In none of his statements regarding the Haditha massacre did Murtha expand his criticisms beyond those directly related to the killings and subsequent cover-up to include the top government and military officials responsible for the occupation.

Murtha, a former Marine intelligence officer and senior Democrat on the House Defense appropriations subcommittee, has close ties to top military brass. His criticisms of the Bush administration’s management of the war reflect divisions over tactics within the military rather than principled opposition to the war.

Nevertheless, for right-wing media and sections of the military and political establishment, even this limited criticism is unacceptable. Murtha’s comments were immediately denounced. Fox News host Bill O’Reilly, for example, denounced Murtha for “bomb throwing.” The libel charge grew out of this initial campaign.

Right-wing pundits and bloggers have likewise trumpeted the court order against Murtha. On September 28, talk-radio host Rush Limbaugh described Murtha as a “phony soldier” for his comments. The Young America’s

Foundation belligerently questioned Murtha on video outside the House chamber September 18, likening his statements to “something that would come from Al Jazeera” and accusing him of “besmirching” US troops.

For its part, the Democratic Party has gone out of its way to demonstrate its militarism and essential support for war, even as some Democrats attempt to strike an antiwar posture. In 2005, Murtha played an instrumental role in channeling antiwar sentiment behind the Democrats when he came forward with criticisms of the war’s management by the Bush administration. This came at a time when there was a growing conflict within the ruling elite and the military over the disastrous handling of the war. Murtha’s arguments for redeployment echoed the sentiments of those military strategists who wanted to cut US losses in Iraq and situate for more effective domination of the entire Middle East.

At the same time, Murtha served to initiate the antiwar posturing of the Democratic party in the lead up to the 2006 elections. Opposition to the war propelled the Democrats into the leadership of Congress. However, once the Democrats took control, Murtha and other leading Democrats have helped perpetuate the occupation of Iraq.

Under the direction of the Democratic majority, more money was appropriated for the wars in Iraq and Afghanistan this spring than was even requested by the White House. From his position on the defense appropriations subcommittee, Murtha played a major part in overseeing this allocation.

Like the majority of Democrats, Murtha postured as an opponent of the war by voting for various amendments to the 2007 war supplemental spending bills. These amendments were limited to vague language calling for the “goal” of partial withdrawal, with no timetables, and the establishment of “military readiness standards,” which have would reduced troop levels via lengthened US return stays for soldiers. Yet when the final war spending bill came up for a vote—stripped of any reference to withdrawal, redeployment, military readiness, or “goals”—Murtha voted for it.



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