

# Spanish judge calls for extradition of US soldiers

**Marcus Morgan****3 June 2009**

A Spanish judge has again called for the extradition of three US soldiers to Spain to face charges of indiscriminate attacks against civilians in war. The charges against Sergeant Thomas Gibson, Captain Philip Wolford and tank commander Lieutenant Colonel Phil de Camp relate to the deaths of two cameramen during the first weeks of the invasion of Iraq in 2003.

The accused are currently residing in the US. Under Spanish law it is possible for a judge to rule on the extradition of a non-Spanish national if there are reasonable grounds for prosecution. Spanish laws on indiscriminate attacks or violence against civilians in war carry a sentence of between 10 and 15 years.

The victims were Taras Protsyuk, a Ukrainian Reuters cameraman, and José Cuoso, a cameraman for the Spanish TV station *Telecinco*. The case deals only with the Spanish national, Cuoso.

On April 8, 2003, the cameramen were filming from their 15th floor balcony at the Palestine Hotel in Baghdad when they were hit by a shell from an Abrams battle tank. The tank had been parked for the previous hour on one of the main bridges across the Tigris River after a lull in fighting between US and Iraqi soldiers. There had been no fire directed towards the tank for about an hour.

Protsyuk was killed instantly and Cuoso died a few hours later. Three other Reuters news agency staff were wounded.

Santiago Pedraz, a high court judge, brought the same charges against the three soldiers in a previous criminal case in April 2007. The charges were dismissed by the Spanish National Court (the highest criminal court) in Madrid last year. Claiming lack of evidence, the National Court dismissed the incident as “an accident

of war.”

Under pressure from an appeal presented by Cuoso’s family and various international journalist organizations, Pedraz decided that the case should be re-opened. Pedraz said, “The soldiers’ argument that they thought they were under attack was invalid.”

He added, “It was known that the Palestine Hotel was in a civilian zone, and that it was being used by journalists.”

Pedraz said that new evidence had emerged from various experts and new witnesses, including a former US soldier. The evidence suggests that the claim that the tank crew believed they were under attack from the direction of the hotel was simply not credible, given that the hotel was designated as a civilian zone.

Javier Cuoso, José’s brother commented, “The success of what’s happening today is thanks to a joint effort, not just of the justice system but of the civil testament in our country. This case was very important here. José gave a face to the victims in the Iraq war. It made many very indignant, and we all saw it. It was an attack against the press.”

In the first few weeks of the invasion, several hundred journalists and media workers were residing in the Palestine Hotel. This was well known to the US military. Many areas in Iraq protected by the Geneva Conventions as civilian zones were deliberately targeted by the US Army and Air Force. Attacks took place on the same day against the television stations of Al Jazeera and Abu-Dhabi, despite assurances that they would not be targeted. Several journalists were injured and killed.

In its report on the incident, the Committee to Protect Journalists stated, “Pentagon officials, as well as commanders on the ground in Baghdad, knew that the Palestine Hotel was full of international journalists.”

In 2007 former Army Sergeant Adrienne Kinne told the Internet news site *Democracy Now!* that she saw the Palestine Hotel on a military target list. It remains to be seen whether this evidence will be used in the case.

The three accused claimed in their defense that they thought the cameramen were “spotters” guiding hostile fire. The tank crew claims that intelligence relating to the press corps location had not been passed down to them. If true, this would be a clear indictment of the Pentagon, rather than just the soldiers directly involved.

A US military investigation in 2004 absolved the soldiers of any wrongdoing, claiming they had “acted within their rules of engagement.” Therefore, the US authorities have not complied with the Spanish request to extradite them. But this poses more questions than it answers. Precisely what, for instance, were the “rules of engagement” on that day?

The gross violation of the Geneva Conventions with respect to journalists in the invasion and ensuing occupation of Iraq only makes sense in the context of the Bush administration’s fears that its promises of bringing democracy to the country would be exposed as lies.

The US government did not want the neo-colonial nature of the invasion to be exposed by independent journalists working within the country, as this could jeopardize efforts to manage public opinion on the war. The initial military investigation into the deaths, which exonerated the soldiers, repeated the Pentagon’s “recommendation” that “non-embedded media personnel routinely inform the proper military and civilian authorities of their locations during combat operations.”

As the international journalists’ organization, Reporters Without Borders, noted at the time, many journalists in the hotel had done exactly that: “Several had informed their employers, some of them in the United States, of the hotel’s GPS location. The pan-Arab TV station Al Jazeera had consistently told the Pentagon of the composition and location of its crews, but its Baghdad offices were nonetheless bombed, killing a reporter.”

In 2005, CNN executive Eason Jordan was forced to resign over a statement he made that the US military had targeted a dozen journalists.

Reporters Without Borders stated in 2006, “The war in Iraq has proved to be the deadliest for journalists

since World War II.” More journalists have been killed in Iraq than during the Vietnam and Algerian wars.

The Iraqi Union of Journalists said the number of Iraqi journalists killed since March 2003 amounts to 292.



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