

# Pentagon rejects new investigation into killing of Spanish cameraman by US troops in Iraq

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Last week, the Pentagon responded to the decision of the Spanish Supreme Court to reopen the investigation into the death of cameraman José Couso in 2003 in Iraq. It declared that US authorities had already acquitted the three soldiers involved of any crime. The Pentagon spokesman said that he did not want to discuss the content of the Supreme Court's decision, adding that "it is the Spanish authorities who must deal with the particular details of this affair".

The Supreme Court in Spain has ordered the reinvestigation into Couso's death after revoking the decision of the National Court to shelve the case against three suspects—Sergeant Thomas Gibson, Captain Philip Wolford and Lieutenant-Colonel Philip de Camp. It has ordered the investigation to be reopened, following a successful appeal by Couso's family.

Tele 5 cameraman Couso, 37, and Reuters reporter Taras Protsyuk, 35, were killed seven years ago, in April 2003, by so called US "friendly fire". The soldiers involved are accused of shelling or ordering the shelling of Baghdad's Hotel Palestine where over 100 international journalists were staying during the US invasion of Iraq. Couso and other journalists and cameramen had taken refuge on the fourteenth floor of the hotel from which they were filming US tanks shooting people, when, suddenly, tank fire was turned on them. Three other members of the media corps stationed in the hotel were also seriously wounded.

Journalists in the hotel declared at the time that the US military were well aware that they were using the hotel and were clearly visible on the roof filming and reporting the movements of US forces. Washington repeatedly claimed that soldiers were returning hostile fire from the hotel. Vice-President Dick Cheney declared that the suggestion that US troops had deliberately attacked journalists was "obviously totally false ... You'd have to

be an idiot to believe that ... The attack on the hotel was simply the result of troops responding to what they perceived to be threats against them."

But this was an outright lie as a subsequent investigation by Reporters Without Borders, *Two Murders and a Lie*, proved. The deaths in Baghdad were also part of a wider pattern, which involved similar attacks on the Al Jazeera and Abu Dhabi television networks.

Reporters Without Borders, together with the International Federation of Journalists and the European Broadcasting Union condemned numerous instances in which non-embedded journalists were fired upon, detained or beaten by US soldiers. No less than 12 were killed in action, at least five by US troops.

The family of José Couso—his mother, three brothers, widow and sons—have continued to fight for the last 7 years for the soldiers responsible for his killing to be brought to justice. They have held demonstrations outside US embassies and military installations, lobbies, meetings and protests with no result. They have exhausted the judicial process.

In 2003, shortly after Couso's death, his family initiated a private prosecution against the troops responsible. The following year, National Court judge Santiago Pedraz, appealed to the US Attorney General for help in obtaining documents relating to the case and for testimony to be taken from the three accused on US soil. Washington refused.

In 2005, Pedraz issued a warrant for the arrest and extradition of Gibson, accused of firing the shot from the tank, Wolford, who was in charge of the tanks and de Camp, who was commander of Tank Regiment Number 64. The three soldiers were accused of murder and war crimes under the Geneva Conventions carrying sentences of up to 20 years imprisonment.

Pedraz stressed that the warrant was required because of the total refusal of Washington to cooperate in his

investigation. 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.”

In February 2006, the US Department of Justice told the Spanish Ministry of Justice that it refused to co-operate with Pedraz’s investigation. The following month the National Court closed the case saying that Couso died as a result of “mistaken identity” and, claiming that it did not have the jurisdiction to carry out an investigation, revoked Pedraz’s arrest warrant.

In December 2006, following an appeal by the Couso family, the Supreme Court ordered the National Court to reopen the case. However, in May 2008, the National Court once again dropped the case declaring Pedraz’s evidence was insufficient and repeating that Couso’s death was an accident of war.

Last year, Pedraz said that new evidence had emerged, including reports by experts and from a former US soldier. He ruled that there were “reasonable indications to believe” that the three soldiers were responsible and reopened the prosecution.

At the same time, the International Federation of Journalists sent a letter to the new US President Barack Obama declaring that none of the attacks against journalists had been independently investigated and that no explanations had been given that satisfied their families, colleagues and friends. The Couso family expected that the Obama government would be more sympathetic than that of George Bush but their hopes have been dashed.

Recently the family also expressed criticisms of Spanish politicians. They say they are disappointed not only with the previous Popular Party government of José María Aznar but also with the present Socialist Workers Party (PSOE) government led by José Luis Zapatero. They accuse the PSOE of having forgotten the Couso case after exploiting it when they were in opposition.

The Supreme Court has reopened the case after deciding that it could be considered as “indiscriminate or excessive attacks against the civil population”. In its ruling the Court cited Geneva Convention protocols relating to the protection of civilians in time of war and the designation of journalists as civil personnel. The Court concluded that “the war strategy named as ‘shock and awe’ consisting of acts such as the bombardment on people and property in the case of armed conflict (...) is punishable by law for those who are in charge of the specific war operations.”

Following the Supreme Court decision, Pedraz reissued

a warrant on July 29 for the arrest of the three soldiers, which will be sent to Interpol through the National Police. Pedraz has also asked the General Council of Judicial Power (CGPJ) for permission to travel to Iraq later this year in order to carry out an on-site investigation. Four other journalists who witnessed the death of Couso have asked to accompany Pedraz in order to explain what they saw back in 2003.

The four journalists reject the Pentagon’s claim that Couso’s death was a terrible mistake. “There are many elements to think that it was no mistake”, emphasises one of them, Olga Rodriguez, who said, “You can see that they were perfectly able to see...our bullet proof jackets with the word PRENSA (Media) in big letters.”

“We had seen them and they us as we were constantly on the balconies because we needed the satellite signal in order to rebroadcast”, she explained.

Rodriguez continues, “That same day another two broadcasting headquarters were attacked, three journalists died as a consequence, no journalist was able to carry out their job that day, that is to say, there were no images of the taking of Baghdad by the United States. That is why we believe that an independent investigation of this matter is fundamental for the freedom of the press, so that a precedent can be set and a repetition avoided. If military actions such as this are not investigated, a feeling is generated that armies act with impunity. It is our duty as citizens and as journalists to ask for justice”.

The Couso case demonstrates how determined Washington remains to prevent the world witnessing the barbarity of US operations in the taking of Baghdad and to silence those journalists who were not under the direct control and discipline of the US military. It is determined to prevent US troops being convicted of the death of José Couso and setting a precedent for the indictment and trial of Bush, Cheney and all those in the US government and ruling establishment who conspired to carry out the illegal war in Iraq.



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