

Conscientious Objector Faces Court-Martial: The Case of Augustín Aguayo

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On March 6, the court-martial will begin in Germany for Army Specialist Augustín Aguayo, who faces up to seven years in prison for refusing to deploy to Iraq for a second tour of duty. His petition for habeas corpus was denied by a three-judge panel of the D.C. Circuit Court of Appeals on February 16. Judges Sentelle and Randolph were the same jurists who recently upheld the provision of the Military Commissions Act that strips habeas corpus rights from Guantánamo detainees.

Before his first deployment to Iraq, Aguayo discovered he was a conscientious objector. When he began to train in arms, Aguayo had great difficulty firing at human-shaped silhouettes and stabbing human mannequins. "During basic training," he recalls, "I felt guilty when I had to pick up and hold a weapon and practice killing with it."

When Aguayo and his wife, Helga, saw an article on the Internet about conscientious objector Stephen Funk, they realized that Aguayo was a conscientious objector.

After he applied to be a conscientious objector three years ago, Aguayo was sent to Iraq as a medic. He refused to load his gun. But instead of treating him as a non-combatant, he was given guard duty and placed in dangerous positions with an unloaded weapon.

A week after Aguayo's habeas corpus petition was denied on August 24, 2006, his unit was slated to deploy to Iraq for the second time. On September 1, 2006, Aguayo went AWOL and missed his unit's deployment to Iraq. He turned himself in to the Army the following day.

Rather than court-martialing Aguayo, Army personnel told him he would be going to Iraq anyway, even if they had to handcuff him and shackle him to the plane. Aguayo fled from the military base in Germany and turned himself in once again on September 26, 2006. He was shipped back to Germany where he will be tried by court-martial this week.

In his statement to the Court of Appeals, Aguayo wrote: "In my last deployment, I witnessed how soldiers dehumanize 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. This is not acceptable to me. It makes no sense that to better the lives of these civilians they must first endure great human loss. This, too, is clear and convincing evidence to me that all war is evil and harmful."

"I also oppose war," Aguayo added, "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."

Aguayo received positive recommendations from the chaplain and Capt. Sean Foster, who held Aguayo's conscientious objector hearing in Tikrit, Iraq. They both found Aguayo's beliefs to be sincere and recommended he be granted conscientious objector status.

But the Court of Appeals sided with four officers who recommended Aguayo's petition be denied. None of the four interviewed Aguayo. The appellate court mentioned that Aguayo was agnostic and cited a report that said Aguayo lacks a "religious foundation" to be a conscientious objector.

Aguayo, who was born in Mexico, is a naturalized U.S. citizen. On February 23, the Mexican legislature condemned the military proceedings pending against Aguayo. Senator Silvano Aureoles called Aguayo "a prisoner of conscience and one more victim of president George W. Bush's militaristic eagerness."

Augustín Aguayo is represented by National Lawyers Guild lawyers James Klimaski, Peter Goldberger, and James Feldman. For more information on Aguayo's case, see <http://www.aguayodefense.org/>.

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