

Great Blow to Pentagon in Court Martial proceedings: Lt. Watada Mistrial a Great Victory

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Lt. Watada's basic defense under international law, US Constitutional law, the laws of war and US Army Field Manual 27-10 (1956) is set forth below. You can read it for yourself and draw your own conclusions. On 16 January 2007 Judge Head had ruled that none of these arguments could be made at the general court-martial (GCM) proceeding itself. It was clear that the Army was planning to railroad Lt Watada. The obstacle to doing this was that JAG had brought charges that made these legal arguments impossible to exclude at the GCM.

In addition, at the GCM itself JAG put on prosecution witnesses that directly confirmed the relevance of these legal arguments to the defense of Lt Watada and in his favor. In addition, his attorney Eric Seitz did a brilliant job in cross-examination of the JAG witnesses to bring out the relevance of these legal arguments to Lt Watada's defense and in his favor.

And then LT Watada was about to take the stand on his own behalf and explain to the jury that he did not deploy to Iraq because he believed the war to be illegal. Judge Head realized that he had lost control of the railroad; that these legal arguments were going to get to the jury; and that there was a good chance the jury would acquit Lt Watada of one, more or all charges. So Judge Head used the stipulation as a pretext to call a mistrial and avoid a serious defeat for the Army.

Under no circumstances was Head motivated to protect the due process rights of Lt Watada, which he had already violated grievously on 16 January 2007. Head's argument on the stipulation is completely bogus. Seitz and Watada and Head and JAG knew exactly that he was stipulating to facts only, not to criminal intent. But Head used the stipulation as a pretext to abort a prosecution that he knew the Army had a very good chance of losing with the jury.

Head pulled the plug on the JAG case because he realized that if Lt Watada was acquitted on any of these charges, which was quite likely, it would be a great blow to the Pentagon, the Bush Administration and the continuance of the war. So Head declared a mistrial. The problem is that by then the JAG case was closed, Lt Watada was about to testify on behalf of his defense, so jeopardy had attached and thus a re-prosecution would be barred by the Double-jeopardy Clause. But as Head saw it, that would be a lot better for the Army, the Pentagon, Bush and the War than a defeat for them all at the GCM..

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