

U.S.: Court-Martial for Soldier Who Wrote Angry Song about Stop-Loss

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MARFA, Texas – Army Specialist and Iraq war veteran Marc Hall was incarcerated by the U.S. Army in Georgia for recording a song that expresses his anger over the Army’s stop-loss policy. Now he waits to be shipped to Iraq to face a court martial.

Stop-loss is a policy that allows the Army to keep soldiers active beyond the end of their signed contracts. According to the Pentagon, more than 120,000 soldiers have been affected by stop-loss since 2001, and currently 13,000 soldiers are serving under stop-loss orders, despite public pledges by President Barack Obama to phase out the policy.

Attorney David Gesspass, a member of the National Lawyers Guild and founding member of the Military Law Task Force, has been consulting on the case and will possibly represent Hall.

“It’s not clear to me if he’ll be tried in Kuwait or Iraq,” Gesspass told IPS. “It may be a matter for the military judge to decide, once there is one.”

Gesspass explained he believes the Army is handling the case this way for two reasons.

“One, it will make it much more difficult to defend because it’s impossible to get witnesses over to a war zone, and two, it denies Hall’s right to a public trial. I think the fundamental reason is to make it more difficult for his supporters and witnesses to be there,” he said. Gesspass believes the Army’s position “is that that’s where all the alleged victims are [Iraq], and they wanted to have the trial where their witnesses are going to be. For me, it’s a lot easier for the Army to get witnesses back to the states than it is for Marc to get his witnesses to a war zone.”

Hall, who is in the Army’s 3rd Infantry Division, was placed in Liberty County Jail for the song, in which he angrily denounces the continuing policy that has barred him from exiting the military.

On Dec. 12, Hall was thrown in jail by his command, on the pretext that the song he had written is considered a threat, and he is facing charges under Article 134 of the Uniform Code of Military Justice (UCMJ), which covers communication threats.

“The charges are connected to song lyrics allegedly written by Spc. Hall that allege deadly threats against his chain of command and fellow Soldiers, specifically shooting them,” reads a statement released the by the Fort Stewart Public Affairs Office.

“I explained to [my first sergeant] that the hardcore rap song was a free expression of how

people feel about the Army and its stop-loss policy,” explained Hall, in response to the charges. “I explained that the song was neither a physical threat nor any threat whatsoever. I told him it was just hip-hop.”

Military service members do not completely give up their rights to free speech, particularly not when they are doing so artistically while off duty, as was the case with Hall.

The military is claiming that he “communicated a threat” with his song. Hall mailed a copy of the song to the Pentagon after the Army unilaterally extended his contract for a second Iraq deployment.

The Army’s latest decision to deploy Hall to Kuwait is an unusual twist in a case that has already attracted widespread criticism from GI rights lawyers. Once in Kuwait, Hall will be driven into Iraq to meet up with his old unit, and placed in confinement and court martialed there.

Kevin Larson of the Fort Stewart Public Affairs Office says the trial will be held in Iraq because that is where important witnesses are.

“It makes sense from the standpoint of witnesses. Most of the witnesses are deployed,” he said.

Jim Klimanski, a civilian military lawyer and member of the National Lawyers Guild and the Military Law Task Force, told IPS that he feels the military is overreacting to the case, and that it is simply a matter of free speech and that the Army’s actions violate Hall’s First Amendment right to free speech.

“It’s a political case, and the military should know that,” Klimanski explained. “I think they are overreaching and overreacting because of Maj. Hassan (who went on a shooting spree at Fort Hood on Nov. 5), and I can understand that to some degree, but cooler heads should prevail and they should deal with stop-loss, and maybe we’ll get the case thrown out.”

IPS obtained a redacted copy of the Army’s Charge Sheet against Hall, filed by Marcus Seiser, which includes five charges. On the sheet, Hall is accused of telling someone he would “go on a rampage,” that “the song makes threats of acts of violence,” and that Hall is accused “of planning on shooting the brigade or battalion commanders.”

Jeff Paterson, the director of the soldier advocacy group Courage to Resist, which is assisting Hall, told IPS, “Marc’s case is unique in that the military hasn’t shown a propensity to go after these political speech cases for several years. We think this is an important case because it could set precedent for free speech rights for those in the military.”

Klimanski, along with underscoring the importance of the case for the First Amendment, thinks the case highlights the military’s ongoing use of stop-loss, which also contributes to how they have responded to Hall’s song.

“It’s a song, and he puts it out to the public,” Klimanski told IPS. “We’re not talking about a Major Hassan who is quietly plotting violence ... this is political hyperbole. This is his rant on stop-loss. It’s political speech.”

“He’s over there saying I have no control over my life,” Klimanski added, “I could be in here

forever. We're talking about a war that could go on forever. So poor old Marc Hall could possibility be in the military forever. I see this as an issue of political speech. The military may not like what they're hearing, but that's what it is. There are people in the military saying their being in it is/was wrong, and they want out."

"They are sending him to Iraq just to punish him," Klimaski believes. "Not that they need to do that to conduct a court martial. They are trying to find any which way to inflict punishment on Marc."

Hall's supporters also say that it is highly unlikely that his current military lawyer will be available to deploy at a moment's notice.

"He will get a new military lawyer who is probably very busy and won't have time to build a proper defence," said Klimaski, "They are trying to stack the deck. It is illegal to ship him to Iraq or Kuwait, but who is going to contest it? You would have to go to Iraq to contest it. They know that they are not going to have a civilian lawyer out there. They are just trying to punish him without due process."

At the time of this writing, Hall was awaiting his being shipped to the Middle East, which could happen any time.

Dahr Jamail's new book, The Will to Resist: Soldiers Who Refuse to Fight in Iraq and Afghanistan, is now available. Order the book here <http://tinyurl.com/cnlgyu>. Visit his website <http://dahrjamailiraq.com>

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