

109TH CONGRESS
1ST SESSION

H. RES. 502

Expressing the sense of the House of Representatives with respect to the senseless and unwarranted criminal prosecution of 2nd Lt. Erick J. Anderson, United States Army.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2005

Mr. LATOURETTE (for himself and Mr. RYAN of Ohio) submitted the following resolution; which was referred to the Committee on Armed Services

RESOLUTION

Expressing the sense of the House of Representatives with respect to the senseless and unwarranted criminal prosecution of 2nd Lt. Erick J. Anderson, United States Army.

Whereas Erick J. Anderson grew up in Twinsburg, Ohio, and earned an engineering degree in 2002 from Youngstown State University, where he also played football under Coach Jim Tressel;

Whereas following the attack on our Nation on September 11, 2001, Anderson felt a call to duty and selflessly enlisted in the United States Army so he could serve his country after one of the darkest moments in America's history;

Whereas in June 2004, 2nd Lt. Anderson and the 41st Infantry of Fort Riley, Kansas, were sent to Iraq to participate in Operation Iraqi Freedom;

Whereas in the early morning hours of August 18, 2004, 2nd Lt. Erick J. Anderson led a platoon in Sadr City, Iraq, and came upon a garbage truck that appeared to be dropping roadside bombs; a firefight ensued and several Iraqi citizens were killed or injured, including a gravely injured 16-year-old Iraqi teen who witnesses described as badly burned with his intestines hanging out;

Whereas 2 members of Anderson's platoon, Staff Sgts. Johnny Horne and Cardenas Alban, each shot the Iraqi teen to put him out of his misery and termed it a mercy killing; the United States did not take possession of the body or perform an autopsy; Horne and Alban were charged on September 27, 2004, with premeditated murder, and their Article 32 hearings began in late October 2004;

Whereas on November 15, 2004, platoon leader Anderson was charged with premeditated murder and conspiracy to commit premeditated murder for the death of the Iraqi teen who was shot by Anderson's subordinates; no allegation was made that 2nd Lt. Anderson fired his own rifle into the victim and 2nd Lt. Anderson was never incarcerated;

Whereas 2nd Lt. Anderson asserted his total innocence and stated that he did not witness, authorize, or order the shooting of the Iraqi teen; a vigorous legal defense was mounted for his Article 32 hearing at Camp Liberty in Baghdad, which was scheduled for December 14, 2004, and later continued until January 19, 2005;

Whereas on December 10, 2004, Horne, who had admitted shooting the Iraqi teen, pleaded guilty to one count of murder and one count of conspiracy to commit murder in a plea bargain; he was sentenced to three years in prison (two years suspended), and given a dishonorable discharge;

Whereas on January 4, 2005, all charges were quietly dropped against 2nd Lt. Anderson without prejudice, meaning they could be refiled at a later date, and 2nd Lt. Anderson returned to combat in Iraq in command of a mortar platoon with full patrol and raid duties;

Whereas on January 14, 2005, Alban, who also admitted shooting the Iraqi teen, became the second person convicted of murder; he was convicted by court-martial of one count of murder and one count of conspiracy to commit murder; he was sentenced to one year in prison and given a dishonorable discharge;

Whereas on January 18, 2005, there was a public announcement of the dismissal of murder charges against 2nd Lt. Anderson;

Whereas on January 27, 2005, Mr. LaTourette of Ohio wrote to Secretary of Defense Donald Rumsfeld and questioned the decision to put Anderson back in combat with the legal proceedings still hanging over his head, and urged the military to charge Anderson or fully dismiss the charges;

Whereas in February 2005, 2nd Lt. Anderson remained in combat in Iraq in command of a mortar platoon with full patrol and raid duties and no charges were filed or refiled;

Whereas on March 9, 2005, Mr. John W. Miller, II, Sr. Legislative Counsel at the Pentagon, responded to Mr. LaTourette of Ohio and wrote “. . . a Soldier’s commander determines the duty responsibilities of his subordinates” and that Anderson was “presently performing duties as directed, and in accordance with the presumption of innocence”;

Whereas in March, April, and May of 2005, 2nd Lt. Anderson remained in combat in Iraq in command of a mortar platoon with full patrol and raid duties and no charges were filed or refiled;

Whereas on May 5, 2005, Spec. Brent May of the 41st Infantry was convicted by court-martial of one count of premeditated murder for the shooting death on August 28, 2005, of an Iraqi civilian in Sadr City, Baghdad; May was sentenced to five years in prison and given a dishonorable discharge; the United States did not take possession of the victim’s body or perform an autopsy;

Whereas on May 13, 2005, Sgt. Michael Williams of the 41st Infantry was convicted by court-martial of one count of premeditated murder and one count of unpremeditated murder for the shooting death on August 28, 2005, of an Iraqi civilian in Sadr City, Baghdad; he was sentenced to life in prison and given a dishonorable discharge; the United States did not take possession of the victim’s body or perform an autopsy;

Whereas on June 13, 2005, 2nd Lt. Anderson and the 41st Infantry were redeployed to Fort Riley, Kansas, after completing a one-year tour of duty in Iraq and participating in Operation Iraqi Freedom;

Whereas in June, July, and August 2005, no charges were filed or refiled against 2nd Lt. Anderson;

Whereas in September 2005, prosecutors at Fort Riley, Kansas, “hinted” to Anderson that his legal problems would go away if he agreed to plead guilty to one count of dereliction of duty; no formal plea bargain was offered and 2nd Lt. Anderson told prosecutors he had done nothing wrong and would not plead guilty to any charges; 2nd Lt. Anderson was told by prosecutors they would “charge him with everything they can think of” and “see if anything sticks”;

Whereas on October 3, 2005, nearly nine months to the day after murder charges were quietly dismissed, murder charges were refiled against 2nd Lt. Anderson and additional charges were also levied; 2nd Lt. Anderson was charged with two murders of Iraqi citizens, one on August 18, 2004, and one on August 28, 2004, and prosecutors alleged that he shot the victims with his own rifle; 2nd Lt. Anderson was also charged with conspiracy to commit the two murders, dereliction of duty, conduct unbecoming an officer, and making a false statement by telling investigators in September 2004 that he heard no third shot fired in the death of an Iraqi civilian on August 28, 2004;

Whereas 2nd Lt. Erick J. Anderson, who faces life in prison or the death penalty, has again professed his total innocence and states emphatically that he did not murder, witness the murder, conspire to murder, or order the murder of the Iraqi civilians on August 18, 2004, or on August 28, 2004; he also has denied making a false statement, engaging in conduct unbecoming an officer, or being derelict in his duties; he plans a vigorous defense

of the senseless and false charges that have been brought against him;

Whereas in his annual Officer Evaluation Report that covers the period of the offenses detailed above, 2nd Lt. Erick J. Anderson's superior officers evaluated his performance from October 30, 2003, to October 29, 2004; they suggested that he "needs to be in a position of greater responsibility now," should be promoted to 1st Lieutenant "now" and should be promoted "ahead of peers"; they stated that—

(1) "2LT Anderson's performance has been outstanding. As my newest Platoon Leader, 2LT Anderson's ability to quickly learn his role as a key leader in the Charlie Company has been refreshing.";

(2) "As the junior lieutenant in the company, 2LT Anderson was tasked as the Unit Movement Officer for the company. Under his leadership the planning, preparation, and packaging of all company equipment was executed flawlessly and set the standard for the battalion. His ruthless attention to details left the company 100% ready to deploy to Iraq.";

(3) "While in Sadr City, Iraq, 2LT Anderson led his platoon on numerous major combat operations, i.e. Iron Fury, Stalwart Fury II, Stalwart Swarm, and Stalwart Flood. Also he led his platoon on numerous mounted and dismounted patrols without a KIA (killed in action). This is truly a testament to his ability to lead troops in combat.";

(4) "2LT Anderson has quickly learned what it means to be a leader in combat. He needs to be in a position of greater responsibility now. 2LT Anderson would make an outstanding Company Executive Officer. Promote to 1LT now."; and

(5) “Mentally tough and physically fit, 2LT Anderson is in the top 50% of all lieutenants that I senior rate. Erick has operated in one of the toughest areas in the Baghdad Area of Operations and has led his platoon well. He is one of my top picks for a specialty platoon. 2LT Anderson will be a great Company Commander in the near future. Promote ahead of peers.”; and

Whereas 2nd Lt. Erick J. Anderson continues to love his country, loves the Army, and wants to return to Iraq to participate in Operation Iraqi Freedom: Now, therefore, be it

1 *Resolved*, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) 2nd Lt. Erick J. Anderson was defending
4 the cause of freedom, democracy, and liberty and his
5 actions of August 18, 2004, and August 28, 2004,
6 did not cause the deaths of Iraqi civilians; he did not
7 order the deaths of Iraqi citizens, did not witness
8 the deaths of Iraqi civilians, is not derelict in his du-
9 ties, and did not make false statements;

10 (2) the United States Government has already
11 secured four murder convictions for the deaths of
12 the two Iraqi civilians on August 18, 2004, and Au-
13 gust 28, 2004, and the United States Government
14 knows definitively that at least three of the convicted
15 defendants shot the victims;

16 (3) there should be the highest standard of
17 proof before the United States takes seriously any

1 allegation that an outstanding, respected, and well-
2 trained Army officer would allow or condone the in-
3 tentional killing of unarmed or incapacitated persons
4 in combat;

5 (4) 2nd Lt. Erick J. Anderson should be com-
6 mended for refusing to cave under enormous pres-
7 sure or admit guilt when he knows he is innocent of
8 all charges; and

9 (5) the United States Government should dis-
10 miss all charges against 2nd Lt. Erick J. Anderson
11 relating to the deaths referred to in paragraph (1).

○