



July 3, 2019

Comments in Light of *United States v. Gallagher*

On behalf of all those who support action to ensure the Constitution is not absent without leave in every military investigation and court-martial involving America's warriors, we write to express our sense of relief that Chief Gallagher was exonerated of murder, the rightful outcome of a military justice process which requires serious reform.

Over the past years, we have identified alarming trends that Chief Gallagher's case brought to the forefront. These include unprofessional investigations where an outcome is determined early on, and then support for the outcome is cherry-picked, ignoring exonerating evidence and focusing only on incriminating evidence - which is totally against fundamental principles of following the evidence to its logical ends and only at that point, determining to make a case.

Another example involves prosecutorial misconduct by seeking convictions rather than the truth and doing justice, in the form of withholding fingerprint and DNA evidence, downplaying the psychotic side-effects of an anti-malarial poisonous drug, misrepresenting to the public the not guilty findings of a court-martial (US Army senior legal officers Brigadier General Joseph Berger and Lieutenant General Charles Pede), and in Chief Gallagher's case, illegally planting monitoring devices to unethically invade the sanctity of the attorney-client privilege by spying on American citizens in violation of law and Executive Order.

Other examples of these disturbing trends involve total abandonment of the international legal principles that civilians killed in combat are "collateral damage," that pursuant to Rule for Courts-Martial 916c, "killing an enemy combatant in battle is justified," and that trumping up Charges to then given immunity to make a case is unethical and an abuse of office.

Although we are grateful for the jury's findings in *US v. Gallagher*, the urgent need for restoration of the Constitution into military justice investigations, trials, and appeals endures, and thus, our work goes on.