

The New York Times

Navy SEAL Chief Accused of War Crimes Is Found Not Guilty of Murder

By Dave Philipps

July 2, 2019

SAN DIEGO — In a war-crimes trial that roiled the elite Navy SEALs and drew the attention of President Trump, a decorated eight-tour SEAL platoon leader was found not guilty on Tuesday of first-degree murder of a captive ISIS fighter and attempted murder of civilians in Iraq.

But the platoon leader, Special Operations Chief Edward Gallagher, was convicted of one charge: posing for photos with the teenage captive's dead body.

Chief Gallagher, 40, who was serving with SEAL Team 7, became a rallying cause of some Republicans in Congress and members of the conservative media. Mr. Trump said on Twitter in March that he would have the chief released from pretrial confinement “in honor of his past service to our country.”

Because the maximum sentence Chief Gallagher could now face is four months, and he has spent more time than that in pretrial confinement, he was expected to go free on Tuesday.

The chief was turned in by his own platoon last spring. Several fellow SEALs reported that their leader had shot civilians and killed the captive Islamic State fighter with a custom hunting knife during a deployment in Iraq in 2017. He was also charged with obstruction of justice by threatening to kill SEALs who reported him.

In the SEALs, Chief Gallagher had a reputation as a “pirate” — an operator more interested in fighting terrorists than in adhering to the rules and making rank. When members of his platoon reported his actions to superior officers, fissures were revealed in the polished image of the SEALs and the unwritten code of silence among members of the secretive force, who see themselves as a brotherhood.

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Some of the platoon members who spoke out were called traitors in a closed Facebook group and were threatened with violence. In court, some said they had started carrying weapons for self-defense.

From the beginning, the Navy portrayed the murder case in particular as a simple one with eyewitnesses to the crime and a culprit whose text messages appeared to admit guilt. But the military repeatedly stumbled in investigating and prosecuting the chief.

The SEAL command initially downplayed the platoon members' reports about the chief, and did not start an investigation of the alleged crimes for more than a year, allowing the trail of evidence to grow cold. The lead prosecutor was removed from the case in May after he was caught improperly attaching tracking software to email messages sent to defense lawyers, leaving his replacement with just a few weeks to catch up before trial. And a key witness changed his story on the stand to favor Chief Gallagher.

The witness, Special Operator First Class Corey Scott, a SEAL medic who was given immunity from prosecution by the Navy, stunned prosecutors by testifying that he, and not Chief Gallagher, had killed the captive, by covering a breathing tube inserted in the captive's neck. His testimony also deviated in other significant ways from what he had told investigators before trial; the Navy has indicated it is considering charging him with perjury.

In a courtroom at Naval Base San Diego, close to the harbor where hulking destroyers and missile cruisers dock, a jury of five Marines, a member of the SEALs and a Navy officer, nearly all with combat experience, spent two weeks hearing testimony in the trial, including unvarnished accounts of one platoon in the Navy's celebrated elite commando force. They deliberated for a little more than eight hours before reaching a verdict.

"The jury found him not guilty of the murder, not guilty of the stabbing, not guilty of the stabbings, not guilty of all those things," one of his lawyers, Timothy Parlatore, told reporters outside the courtroom. "They did find him guilty of taking a photograph with a dead terrorist, which we admitted from the beginning."

Chief Gallagher sat stoically in the courtroom in a white dress uniform during the trial, with his wife, brother, mother and father, who was a West Point graduate, sitting behind him. He did not testify.

Marc Mukasey, another of his lawyers, said the chief began to cry when the verdict was read. He described the moment as "tears of joy, elation, freedom, absolute euphoria."

Chief Gallagher emerged from the courthouse beaming, hugging his wife and brother as photographers thronged around his legal team.

Bernard Kerik, the former New York police commissioner who put the team together, said it was time to stop second-guessing the men and women fighting overseas.

“Let them do their job. Eddie Gallagher did his job,” Mr. Kerik said. “He’s a hero. He’s a hero in the eyes of every American who followed this case.”

There was little physical evidence in the case, so the trial hinged on the credibility of the platoon members who testified. Prosecutors held them up as courageous whistle-blowers who broke the SEAL code of silence to stop a rogue chief who was on a track to higher leadership positions. The defense painted the accusers as scared and entitled millennials who could not meet their chief’s high expectations, and fabricated war-crimes allegations to take him down.

“He didn’t coddle them,” Mr. Parlatore told the jury, so the platoon “fomented a plan of hate and mutiny.”

The case centered around the death of the captive fighter, who was brought in to the SEALs’ command post near Mosul, Iraq, by Iraqi forces. SEALs testified that after giving the fighter first aid, Chief Gallagher, a trained medic, stabbed the fighter repeatedly in the neck.

SEALs from the platoon also accused him of firing from a sniper post at unarmed civilians who posed no threat, including an old man and a schoolgirl. Chief Gallagher denied all the charges.

About 20 minutes after the captive died, Chief Gallagher posed for what both sides in the trial described as trophy photos with the corpse. In one hand he held the captive’s hair; in the other he held a small, custom-made hunting knife by the captive’s bandaged neck. Some of the photos show several other SEALs gathered around and smiling.

A few days later, Chief Gallagher texted the photo to comrades in the United States, sending one the message, “Good story behind this, got him with my hunting knife.”

During two weeks of testimony, two SEALs testified that they had seen Chief Gallagher stab the captive in the neck for no clear reason. Several others said that they heard the chief admit to the killing that evening when confronted by the platoon, and that he told them, “I thought everyone would be cool with it; next time, I’ll do it where you can’t see.”

The defense described the accusers as disgruntled conspirators who plotted in a group text chat they called the “sewing circle.” The chief’s lawyers said the men were bitter because their chief was stealing snacks from them, needlessly exposing them to fire and then calling them cowards when they questioned his tactics.

The defense argued that the evidence for the charges of shooting civilians was so vague that in one case it amounted to little more than one sniper saying he thought he saw Chief Gallagher shoot someone, but did not actually see Chief Gallagher pull the trigger.

“There is no physical proof this ever happened, no date, no day, no photos, no video,” Mr. Mukasey told the jury. “There is no proof they ever happened, period.”

In rebuttal on Monday, Lt. Scott McDonald, one of the Navy prosecutors, told the jury that the defense’s theory of a platoon conspiracy did not make sense because Chief Gallagher’s text messages of him posing with the corpse were not discovered until months after platoon members reported the stabbing to law enforcement.

“An incredible coincidence,” Lieutenant McDonald said. “Out of all the false allegations they would supposedly make up, it would be the one he admitted to.”

The jury of officers and relatively high-ranking enlisted troops listened as matters the Navy probably did not want to air publicly were discussed in court.

At one point, the classified rules of engagement that guided SEALs on who they could kill in Iraq were delivered in a locked black bag by an armed guard. They were not read aloud in court, but one Marine attached to the SEAL platoon testified about part of what they said. Regarding one section of the crowded city of 660,000 along the Tigris River, the Marine testified that for SEAL snipers, “everything on the other side of the river was good to go, was cleared hot, were good targets.”

Other details brought out at trial cast unfavorable light on the elite SEALs. According to testimony, Chief Gallagher’s platoon built a rooftop bar at their compound and had empty beer cans rolling around in their trucks; a lieutenant made a video montage for the platoon, set to music, of enemy corpses from the deployment; a number of SEALs and Marines besides Chief Gallagher took photos with the dead ISIS fighter; and one SEAL mistook a car loaded with women and children in Mosul for ISIS fighters and flew a hand-launched explosive drone, known as a Switchblade, into the vehicle, killing them all.

Chief Gallagher could still face administrative punishment from the Navy, including an other-than-honorable discharge.

A version of this article appears in print on July 3, 2019, on Page A18 of the New York edition with the headline: Navy SEAL Chief Accused of War Crimes Is Found Not Guilty of Murder

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