

GI CIVIL LIBERTIES DEFENSE COMMITTEE  
Box 355, Old Chelsea Station  
New York, New York, 10011

Fact Sheet: The Case of Pfc. Walter Kos

Army attempts to silence an antiwar GI at Fort Bragg bring out the fundamental question of the constitutional rights of American soldiers. Pfc. Walter Kos was on August 20th served with a direct order limiting his rights of free speech and press, and he now faces court-martial for violation of this unlawful order.

The case now pending is only the latest episode in a series of military efforts to intimidate this soldier. Kos was stationed in Germany last spring at the time of the murder of Martin Luther King. He helped to circulate a letter to President Johnson expressing GI reaction to the assassination, and a petition requesting that his company comply with the presidential request to observe a "Day of Mourning" on Sunday, April 7th. He and his fellow GIs were told that they had no right to submit such a petition and letter; and Kos was suddenly pulled out of his company in Germany and reassigned to the United States.

Kos' introduction to Fort Bragg was not very auspicious. He was held under armed guard for several days while the authorities waited for his records to arrive from Germany. (He had refused to answer certain parts of the Army "security" questionnaire on the grounds that they were unconstitutional and had asked to know what his rights were with regard to being fingerprinted.) The Army refused to tell him why or under whose authority he was being held as a criminal or to reveal whether it was legal for him to be so held without being arrested.

When he was released from custody, Kos began to discuss the war and his own political beliefs with Fort Bragg soldiers. Kos is a socialist: he is a member of the Young Socialist Alliance and a supporter of the presidential campaign of Socialist Workers Party candidate Fred Halstead.

Kos found that many of his fellow soldiers were interested in his literature and in the GI antiwar newspapers he received, and he shared his books and papers with them.

On August 15th, Kos entered into a discussion of the war with a group of basic trainees who had just arrived on base. He gave the new GIs a number of copies of Veterans' Stars and Stripes, an antiwar newspaper written by and for GIs and veterans. Kos' papers were grabbed by a sergeant and he was taken into custody, but he was released after having been questioned and held overnight.

Soon after this incident, on August 20th, Kos received the following direct written order from his commanding officer: "You are hereby directed to refrain from distributing or causing to be distributed, any publication not authorized by the Department of the Army on any part of the Fort Bragg Military Reservation, Fort Bragg, North Carolina." Kos was required to acknowledge receipt by signing the order.

On the morning of September 8, as Kos was standing outside his mess hall, a sergeant asked him for the copy of Vietnam GI that he was holding. Kos handed him the antiwar newspaper. The Army says that this act was a violation of the direct order served upon Kos.

Since September 12, Kos has been confined to company area, pending court-martial for giving the Vietnam GI to the sergeant. His activities have been strictly circumscribed: he has to check in every hour on the hour when he is not in bed; he has been told that he can only use certain paths and doors; for a time he was not allowed to make or receive telephone calls.

Kos was told on September 13th that he faced court-martial for disobeying an order, and was later informed that his trial would be by special court-martial, carrying a maximum penalty of six months at hard labor in the stockade. No formal charges were filed against him, however, and the Army refused to assign him a lawyer. At one point, he was told that the case was still in "preliminary stages" and that he "didn't need a lawyer."

Kos feels that, aside from the unconstitutional nature of the charge, the way in which the case is being handled constitutes a clear violation of his civil liberties. He has been held under very stringent and detailed restrictions and threatened with court-martial, without formal charges being filed in his case.

On Wednesday, September 25, the Army case against Kos underwent all of the following developments. In the morning, Pfc. Kos was introduced to his prosecutor, Captain Hatcher and his army defense attorney, Captain Hyde. He was finally served with official charges and was told that his court-martial had been set for Saturday, September 28 -- in other words, three days hence. At two o'clock in the afternoon, all restrictions on Kos were lifted. At three o'clock, Captain Hyde informed Kos that the authorities had changed their minds about the court-martial, that the charges against him were being dismissed, and that the case would be "started all over again." Later in the afternoon, however, Kos learned that his court-martial had been rescheduled for Monday, September 30, or Tuesday, October 1.

Pfc. Kos is being defended by Rowland Watts, the eminent civil liberties attorney and president of the Workers Defense League. Mr. Watts is investigating the legal and constitutional questions involved in the denial of Pfc. Kos' first amendment rights, and is seeking to ascertain the exact status of the Army case against the antiwar GI.

For further information, write to the GI Civil Liberties Defense Committee, Box 355, Old Chelsea Station, New York, New York, 10011. Statements of support and financial contributions are welcome.