

“Friendly Fire” Pilot Loses Appeal

Less than two weeks after Maj. Harry Schmidt was found guilty of dereliction of duty, the Air National Guardsman lost his appeal to set aside the punishment imposed. Schmidt faces a letter of reprimand and a fine of \$5,672—the maximum allowed under the Uniform Code of Military Justice.

The saga began April 17, 2002, when Schmidt, an Illinois Guardsman flying an F-16, mistakenly bombed Canadian troops participating in night exercises in the Tarnak Farms area of Afghanistan. Four Canadians were killed and eight injured.

Gen. (sel.) Bruce Carlson, commander of 8th Air Force at Barksdale AFB, La., was the presiding authority for Schmidt’s nonjudicial hearing. (See “Aerospace World: ANG Pilot Found Guilty of Dereliction,” August, p. 13.) Schmidt immediately appealed to Carlson to set aside the punishment meted out July 6, but Carlson denied his request.

Under Article 15 of the UCMJ, the appeal was sent to the next superior authority, which, in this case, was Gen. Hal M. Hornburg, commander of Air Combat Command. Hornburg, Schmidt’s last recourse, denied the appeal on Aug. 3.

ANG Pilot Found Guilty of Dereliction

More than two years after a deadly fratricide incident in Afghanistan, the Air Force found Illinois Air National Guard F-16 pilot Maj. Harry Schmidt derelict in performance of his duty during the April 17, 2002, bombing. Schmidt has said he will appeal the decision.

Lt. Gen. Bruce Carlson, 8th Air Force commander, issued his decision July 6, less than two weeks after Schmidt withdrew his request to contest the charges against him through a court-martial. A year earlier, on June 19, 2003, the Air Force had offered the pilot the option of a nonjudicial process rather than a court-martial, but, on June 25, 2003, Schmidt declared he wanted to be tried by court-martial.

However, on June 24 of this year, Schmidt told the Air Force he wanted to undergo a nonjudicial hearing instead. Carlson, who is the presiding officer in the case, accepted his request the same day.

Schmidt presented his case on July 1 in a one-hour appearance before Carlson.

In finding the pilot guilty, Carlson said that Schmidt had “flagrantly disregarded a direct order” and had “exercised a total lack of basic flight discipline” and “blatantly ignored the applicable rules of engagement and special instructions.” As punishment, Carlson issued a written reprimand and ordered Schmidt to pay \$5,672, the maximum amount provided under Article 15 of the Uniform Code of Military Justice.

Schmidt could have faced 64 years of confinement had he been convicted at a court-martial. His flight lead, Maj. William Umbach, was previously cited for “leadership failures” and retired with a reprimand.

The attack on the Tarnac Farms area killed four Canadians and injured eight.

(For additional background on this case, see “Aerospace World” news items: “ANG Pilot Seeks Court-Martial,” August 2003, p. 11, and “Pilots Blamed in Canadian Deaths,” August 2002, p. 16.)

ANG Pilot Seeks Court-Martial

Shortly after the Air Force offered nonjudicial punishment in lieu of court-martial, Maj. Harry Schmidt, the Illinois Air National Guard F-16 pilot who mistakenly bombed Canadian troops in Afghanistan in April 2002, demanded to stand trial instead. Four Canadians were killed and eight wounded in the incident.

Schmidt said June 25 he wants to clear his name.

Lt. Gen. Bruce Carlson, commander of 8th Air Force, had reviewed the evidence and recommendations from an Article 32 hearing held earlier this year and, on June 19, had announced he would issue a letter of reprimand to Maj. William Umbach, the lead F-16 pilot involved in the incident, and initiate Article 15 action against Schmidt.

Umbach, who did not release weapons, was cited for "leadership failures." Carlson also recommended the service accept Umbach's request to retire.

Schmidt allegedly failed to follow an order to make certain his target was not friendly and to "stand by," as instructed by an Airborne Warning and Control System aircraft. He has maintained that there was no warning that coalition forces were in the area on night exercises.

For additional background, see "Aerospace World" news items: "Pilots Blamed in Canadian Deaths," August 2002, p. 16; "USAF Changes Tarnak Farms Disciplinary Authority," September 2002, p. 21; "Air Force Charges Two Pilots in Deaths of Canadians," October 2002, p. 19; "The Case of the ANG Pilots: Blame, Support, and Conflicting Testimony," February, p. 20.

Tarnak Farms Investigator Says No Court-Martial

On March 20, the hearing officer investigating two Air National Guard pilots charged in the friendly fire incident at Tarnak Farms in Afghanistan recommended against court-martial. However, his recommendation is not binding.

The Air Force began an Article 32 hearing, similar to a civilian grand jury proceeding, in January against two Illinois Guardsmen, Maj. Harry Schmidt and William Umbach. They were charged in the April 17, 2002, bombing incident that left four Canadian soldiers dead and eight others wounded. (See "Aerospace World: The Case of the ANG Pilots: Blame, Support, and Conflicting Testimony," February, p. 20.)

After hearing testimony and reviewing documentation in the case, the hearing officer, Col. Patrick Rosenow, concluded there was insufficient evidence to charge the pilots and try them by court-martial. In his report, Rosenow recommended administrative rather than judicial action.

Rosenow's report went to Lt. Gen. Bruce Carlson, who is 8th Air Force commander and the general court-martial convening authority in the case. He does not have to abide by Rosenow's recommendation.

Carlson's options include referral of some or all of the charges to a court-martial, nonjudicial punishment, administrative sanctions, or dismissal of some or all of the charges, with no further action.

The Case of the ANG Pilots: Blame, Support, and Conflicting Testimony

The Air Force on Jan. 14 began an Article 32 hearing against two Illinois Air National Guard pilots charged in the April 17, 2002, bombing incident that left four Canadian soldiers dead and eight others wounded. The Article 32 hearing—similar to a civilian grand jury proceeding—determines whether the pilots must face a court-martial.

Maj. Harry Schmidt and Maj. William Umbach were charged last year with four counts of involuntary manslaughter and eight counts of assault. (See “Aerospace World: Air Force Charges Two Pilots in Deaths of Canadians,” October 2002, p. 19.)

Those who blame Schmidt and Umbach say the pilots failed to follow proper flight procedures and acted recklessly. Supporters maintain the pilots responded appropriately to a perceived attack and blame superiors for a general lack of communication. Following are some of the comments and witness testimony surrounding the case.

On Combat Airmanship

Brig. Gen. Stephen T. Sargent, the general who filed the charges, testified: The pilots broke the most basic rules of combat flying and showed “reckless disregard” for orders intended to prevent such accidents. They violated the rules of engagement for coalition aircraft by descending and slowing down before dropping a 500-pound bomb on what they mistook for hostile forces, rather than ascending and speeding away to identify those forces from a position of safety.—*New York Times*, Jan. 22.

Lt. Col. Ralph Viets, ANG pilot, when asked by the prosecution if the pilots’ actions flew in the face of standard protocol, responded: “It’s not all that unusual.”—*St. Louis Post-Dispatch*, Jan. 18.

Lt. Col. Craig Fisher, an F-16 pilot who was a key officer in the coalition air operations center on April 17, testified: “A prudent person would remain outside the threat envelope.”—*St. Louis Post-Dispatch*, Jan. 18.

Col. Lawrence Stutzriem, a senior officer in the CAOC on April 17, testified that Schmidt’s request to strafe from a high angle in the black of night was “extremely unusual. ... It’s just something you wouldn’t expect, something that wouldn’t occur.”—*New York Times*, Jan. 16.

Capt. Joseph M. Jasper, Canadian soldier at Tarnak Farms, testified that fire from Canadian troops could reach only a few thousand feet into the air before burning out. (The pilots were flying at about 20,000 feet.) Upon cross-examination, he admitted he was observing a drill some distance away from where the bomb fell, so did not see how high his men were firing.—*New York Times*, Jan. 15.

On Lack of Communication

Capt. Evan Cozadd, an Air Force intelligence officer, testified that the pilots had been warned before the mission that friendly forces might be on the ground. “We couldn’t speak with any

degree of certainty who they were looking at.” Upon cross-examination, Cozadd admitted he did not know of a Canadian live-fire exercise at Tarnak Farms.—*Washington Post*, Jan. 21.

Stutzriem, in further testimony, said that air combat orders Air Force pilots were required to read included information that coalition ground forces would intermittently use live ammunition. “I would assume every pilot who read [the orders] knew that Tarnak Farm was there. ... It was well-known. Kandahar is a location of friendlies.”—*New York Times*, Jan. 17.

Maj. Marshall S. Woodson III, an officer on the ground who relayed instructions via radio to the two pilots, testified upon cross-examination that he had never heard of Tarnak Farms.—*Washington Post*, Jan. 21.

Jasper, upon cross-examination, said that there were breakdowns in communication and noted that his regiment had nearly been strafed by friendly aircraft a month before the bombing.—*New York Times*, Jan. 15.

Col. David C. Nichols, the pilots’ commander: “The problem I see with this is we have friendly aircraft in a war zone that is unknown as to where the bad guys are and where the good guys are. ... A stated, ongoing problem from the beginning [has been] not knowing where the friendly locations are.”—In taped comments following the incident, *Washington Times*, Jan. 9.

Air Force Charges Two Pilots in Deaths of Canadians

The Pentagon announced Sept. 13 that the Air Force had filed criminal charges two F-16 pilots for the April 17 attack that left four Canadian soldiers dead and eight others injured.

A DOD statement said, "These charges are only accusations. Both officers are presumed innocent." The accidental attack occurred near Kandahar, Afghanistan.

The two pilots are from the 170th Fighter Squadron, based at Springfield, Ill. The unit is part of the Air National Guard's 183rd Fighter Wing.

Maj. Harry Schmidt was charged with four counts of involuntary manslaughter and eight counts of assault. He was also charged with failing to exercise appropriate flight discipline and not complying with the Rules of Engagement

Maj. William Umbach was charged with the same counts. As flight commander, he also was charged with having negligently failed to exercise appropriate flight command and control and to ensure compliance with the ROE.

Preliminary results from a coalition investigation board, released June 28, had found both F-16 pilots were at fault. It also determined that failings within the pilots' immediate command structures were contributing factors.

The coalition board was co-chaired by Canadian Brig. Gen. Marc Dumais and USAF Brig. Gen. Stephen T. Sargeant, a veteran F-16 pilot.

A separate Canadian board also blamed the two pilots. In findings it also released June 28, the Canadian board said the two pilots were not aware of a planned coalition live-fire exercise. However, it also said that the weapons used by the Canadian soldiers that day were personal side arms up to and including shoulder-fired anti-tank munitions. "Though visible from the air, the armament being employed was of no threat to the aircraft at their transit altitude," the board claimed.

US Central Command released a public version of its final investigation report on Sept. 13. According to its sequence of events, the Canadian soldiers on April 17 were at the Tarnak Farms Range for nighttime live-fire training. The F-16 pilots, who were northeast of the range to rendezvous with an aerial refueling aircraft after completing their mission, reported seeing surface-to-air fire (SAFIRE) off to the right. Umbach asked for permission from an Airborne Warning and Control Systems aircraft to pinpoint the exact coordinates.

Schmidt made a turn away from Umbach and began a descent. Schmidt reported he could see the source of the SAFIRE and requested permission to lay down some 20 mm cannon fire. The AWACS contacted the Combined Air Operations Center, whose chief "immediately" told the controller to deny the request. The CAOC asked for more information. Schmidt reported that he saw men on a road "and it looks like a piece of artillery firing at us. I am rolling in self-defense." About five seconds later, Schmidt called bombs away and released a 500-pound laser-guided munition. Thirty-eight seconds after Schmidt's self-defense call, this came over the radio: "Be advised Kandahar has friendlies; you are to get ... out of there as soon as possible."

The 65-page report concluded, from numerous interviews, that other F-16 pilots faced with a similar situation would have climbed to altitude and left the area to avoid the threat. Neither of these two pilots, said the report, "aggressively maneuvered their aircraft in the face of what they presumably believed was a surface-to-air threat."

Under a heading titled "Proportionality," the report stated that, although Schmidt released a 500-pound bomb, he had requested use of a lesser amount of force, the 20 mm cannon. He "did not engage in any nonlethal means of self-defense (i.e. maneuvering away from the threat) before making the decision to use lethal force."

The CENTCOM investigation report also appeared to support findings by both the coalition board and the Canadian board about problems in the pilots' command structure. According to the CENTCOM report, "The presence of the wing's entire chain of command in the OEF [Operation Enduring Freedom] deployment was unusual, and it appeared from witness testimony that there was confusion as to exactly who was in charge in the deployed squadron environment and who had the ultimate responsibility to ensure that standards were met."

The two pilots are to be tried by military court-martial convened by Lt. Gen. Bruce Carlson, commander of 8th Air Force at Barksdale AFB, La.