

Justice for G.I.s? Say Iraq uranium caused ills

Three years after returning from Iraq with persistent ailments they believe were caused by inhaling uranium dust from exploded U.S. shells, a group of former New York National Guardsmen finally got their first day in court this week against the federal government.



Smith for NEWS

In a two-hour hearing late Wednesday before Manhattan Federal Judge John Koeltl, lawyers for the eight veterans argued that the Army caused the soldiers' illnesses when it violated its own safety protocols and exposed them to radioactive depleted-uranium dust.

Former soldiers are suing U.S. for ailments they say they acquired in Iraq. Back row: Anthony Yonnone, Gerard Matthew, Anthony Phillip, Herbert Reed, Raymond Ramos; front row: Janise Comacho-Matthew (wife of Gerard), Agustin Matos and Jerry Ojeda.

Army doctors also covered up information about any exposures and failed to provide the soldiers proper medical treatment, the lawyers claimed.

The case is the first to reach a courtroom from Iraq war soldiers claiming harm from depleted uranium - a low-level radioactive metal the Pentagon began using during the first Persian Gulf War to harden artillery shells so they could penetrate enemy tanks.

Assistant U.S. Attorney John Cronan, representing the Army, urged Koeltl to dismiss the lawsuit immediately.

Cronan repeatedly referred to a 1950 Supreme Court decision, commonly known as the Feres Doctrine, that prohibits soldiers from suing the government for injuries "incident to [military] service."

"Any trial of this would be second-guessing sensitive military matters that civilian courts should not be discussing," Cronan said.

As the government's lawyer spoke, Gerard Matthew, the lead plaintiff in the lawsuit, who was sitting with his wife Janise in a courtroom packed with supporters, quietly shook his head.

A former Army specialist who transported destroyed tanks from Iraq back to Kuwait during the first months of the war, Matthew returned home in September 2003 with a variety of ailments for which Army doctors could not explain the cause. They included constant migraine headaches, blurred vision, blackouts and a burning sensation whenever he urinated.

On June 29, 2004, his wife gave birth to a baby girl, Victoria, who was missing three fingers on one hand. Tests of Matthew's urine sponsored by the Daily News in early 2004 showed that he had been exposed to

depleted uranium, according to Axel Gerdes, the scientist at Goethe University in Frankfurt, who performed the analysis.

Gerdes also found that four of nine other returned soldiers from a different National Guard unit, the 442nd Military Police, had been exposed to the radioactive dust.

Reports in The News created a firestorm that reached to Congress and received coverage around the world - especially when the New York soldiers, several of them cops and correction officers in civilian life - accused military doctors of refusing to test them for depleted uranium, or losing or delaying their test results.

Since then, the Pentagon has tightened its testing procedures and some two dozen state legislatures have either passed or are considering bills to require depleted uranium testing for their own National Guard troops returning from Iraq.

Tuesday's hearing was a chilling review of how the courts have dealt over more than half a century with massive injuries inflicted by our own military weapons against American troops.

Both Cronan and the lawyers for the plaintiffs, George Zelma and Elise Hagouel Langsam, referred repeatedly to prior cases of soldiers exposed to atom bomb testing during World War II, to the massive illnesses that afflicted Vietnam War soldiers from Agent Orange, even to secret LSD testing among soldiers by the Army during the 1970s.

"It can't be that Congress intended our government to betray its own troops," Zelma said at one point.

By his dogged questioning of lawyers from both sides, it appeared that Koeltl was giving the claims from the soldiers serious attention. But he gave no hint of how he might rule.

"We're here to speak for all our fellow soldiers who don't even know what they've been exposed to in Iraq," Matthew said afterward. "The Army didn't even follow its own procedures to protect us, and someone needs to answer for that."