

Soldiers Are Being Forced to Choose Between Their Children And the Military, And They're Paying the Price In Jailtime

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In January, U.S. Army officials announced four separate court-martial charges against Specialist Alexis Hutchinson, a single mother who missed her deployment to Afghanistan in early November 2009 when her childcare plans for her infant son, Kamani, fell through at the last minute. Hutchinson was jailed and threatened with a court-martial if she did not agree to deploy to Afghanistan. Kamani was placed into a county foster care system.

Hutchinson, in accordance with the family care plan of the U.S. Army, had been allowed to fly to Oakland, California to leave her son with her mother, Angelique Hughes. However, after a week, Hughes realized she couldn't care for Kamani along with her other duties of caring for a daughter with special needs, her ailing mother, and an ailing sister. She told Hutchinson and her commander, Captain Gassant and the Army granted a Hutchinson an extension so that she could find someone else to care for Kamani. In the meantime, the boy came back to Georgia to be with his mother.

But only a few days before Hutchinson's original deployment date, she was told by the Army she would not get the time extension after all, and would have to deploy despite the fact that her son had nowhere to go. Faced with this choice, Specialist Hutchinson chose not to show up for her plane to Afghanistan. The military arrested her and placed her child in the county foster care system.

"I think they didn't believe her that she was unable to find someone to care for her infant," Hutchinson's civilian lawyer, Rai Sue Sussman, said at the time. "They think she's just trying to get out of her deployment. But she's just trying to find someone she can trust to take care of her baby. She has never intended to get out of her deployment."

The Army put Hutchinson in the position of having to choose between caring for her infant son or deploying to Afghanistan. She chose to care for her son, and is paying the price. Currently, she remains assigned to Hunter Army Airfield near Savannah, Georgia, where she has been posted since February 2008.

Hutchinson is not unique in facing unthinkable choices when it comes to having to choose between family obligations and the U.S. military. While Sussman explained that she has not heard of another case identical to Hutchinson's, where the military arrested a mother and placed her child in foster care, "I've spoken with many soldiers who have told me that that was the choice they were given [to place their child in foster care and deploy, or face court martial]. I spoke with someone yesterday who knew someone who had to place their child with a distant relative to avoid having them being placed in foster care by the military." A

soldier in the Florida Coast Guard had just contacted her over a similar situation addition, Sussman said.

Army regulations exist to deal specifically with soldiers who have children. “If a soldier can’t find adequate childcare, they are supposed to be discharged honorably, according to Army Regulation 635-200,” says Sussman, “The regulation in this, Chapter 5, is separation for convenience of the government, deals with this, and 5-8 is the discharge, which is involuntary separation due to parenthood. This is considered a punishment to people in the Army, because the assumption is that people want to stay in the Army, but this is for times when it’s not a fit.”

“The military is aware that these things happen, and I believe the regulations anticipate child-care plans sometimes falling through, and there are sometimes no alternatives,” Sussman added, “They [U.S. Military] recognize the parent does have a duty to care for their child if they can’t find a backup for when they are deployed. The military doesn’t want people deployed who are distraught about their children.”

Kathleen Gilberd, co-chair of the Military Law Task Force, part of the National Lawyers Guild, agrees.

“There is a pregnancy discharge, a parenthood discharge for sole-parents who can’t find someone to give total care to their kids, there’s a hardship discharge where an unusual family problem that requires the soldier to be with a family in financial crisis or a family member who has a severe mental health problem,” Gilberd explains. “But, despite regulations existing to deal with these problems, these are typically ignored by the military. The military will typically say, ‘Well, we looked at it, but we can’t help you with this.’”

Gilberd says there are common phrases in the military that speak to this: “If we wanted you to have a family, there would have been one in your duffle bag.” Or, “If we wanted you to have a wife, we would have issued you one.”

“Family is subsidiary to military needs,” she adds. “Soldiers hear this from the beginning.”

Gilberd is currently working on a case similar to Hutchinson’s, but her client is not ready to go public yet. Gilberd says, “The military isn’t going to be forthcoming about the reasons soldiers refuse to deploy or go AWOL, but I certainly run into many cases of soldiers struggling with the military while they try to care for their children, or sick family members.”

“Helping Children Cope”?

The U.S. Military has, via a large and ongoing propaganda effort, attempted to sell itself as being “family friendly” in an attempt to lure recruits with families to join.

On the U.S. Army’s primary recruiting website, goarmy.com, a section titled “Army Families” has sections for health care, finances, family services, and even a section on relocating with a sub-section titled “Helping Children Cope.” A small paragraph addresses the stress on children whose military parent(s), faced with moving on a regular basis, feel the stress. A sentence states, “If you have young children, their first move can be challenging and maybe even downright scary.”

But moving is not the most frightening proposition faced by children whose parents are in

the military today. Rather, it is the unwillingness by the military to accommodate the needs of their parents.

When Sergeant Heath Carter returned from the invasion of Iraq, he discovered that his daughter, Sierra, was living in an unsafe environment in Arkansas under the care of his first wife, who had full custody of the child. Heath and his new wife, Teresa, started consulting attorneys in order to secure custody of Sierra, who also suffered from a life-threatening medical condition. Precisely during this time, the military chose to keep changing Carter's duty station from Fort Polk, Louisiana, to Fort Huachuca, Arizona, then to Fort Stewart, Georgia. Not only did these constant transfers make it difficult for Carter to see his daughter, they also reduced his chances of gaining custody of Sierra. Convinced that this was a matter of life and death for his daughter, he requested compassionate reassignment to Fort Leavenworth, Missouri, about two hours from his first wife's home in Arkansas.

His appeals to the military command, the legal department, a military chaplain, and even to his congressman failed, and the military insisted that he remain in Georgia. Having run out of all available avenues, in May 2007 he went AWOL from Fort Stewart and headed home to Arkansas where he fought for and won custody of Sierra, and was able to literally save her life by obtaining for her the medical care she needed.

But on January 25, 2009, Carter was arrested at his home by military police, who flew him back to Fort Stewart where he has been awaiting charges since then. Initially, his commander told him it would take a month and a half for him to be sent home. Instead, several months later, it was decided he would receive a court-martial.

"Now I have to wait for the court martial," Carter explained in an interview last fall. "It's taken this long for them to decide. If we had known it would take this long, my family could have moved down here. Every time I ask when I'll have a trial, they say it is only going to be another two weeks. I get the feeling they are lying."

His ordeal has forced Carter to reflect on the wars. He admits that, although his original reason for going AWOL was personal and he had otherwise been proud of his missions, he sees things in Iraq differently today. "I don't think there is any reason for us to be there except for oil."

To add insult to injury, Sergeant Carter's command even offered him a deployment to Afghanistan amid his struggles.

An equally shocking story is that of Army Specialist Leo Church.

Shortly after Church completed his Basic Training, he received a call from his partner and mother of his two children, informing him that they were homeless and living in a van. Church asked his commander for permission to leave Fort Hood and go get his family, but permission was denied.

"Seeing that I had no other choice I left to pick up my children and then immediately returned to Ft. Hood, back to my company," Church wrote of his experience in a statement from September 1, 2009. "When I returned I was charged for leaving without permission and given an Article 15, and my pay was cut in half. Things only got worse from there."

Church's captain suggested that he have his children live with him, and Church could take them to work with him, except there was a six-month wait for this to be approved. "Knowing

that I was not allowed to have them in my room overnight and it being inappropriate to take them to my company to work, I left to take my children to Amarillo, Texas so I could find them a safe place to live," Church wrote of the situation, "Having only my mother to turn to, but knowing that she could not keep them 24 hours a day for me to be able to return to Ft. Hood, I stayed and found myself a civilian job. I knew my obligation was to the Army and my company, but my children were my obligation long before I ever considered enlisting and they needed their father."

Church was picked up for being AWOL in 2007 and flown back to Fort Hood where he was returned to his company, and threatened with 15-20 years in prison for having gone AWOL, despite the fact that it was to take care of his children. His partner left him during this time as well.

"So, again I found myself leaving, this time not for my children, but for me," Church added, "I was scared and alone, and had no one to help me as it had been since the first day I arrived at Ft. Hood."

This time Church "started to build the foundation for my life," adding, "a beautiful home, an excellent job, a wonderful wife, Amanda, and my only son on the way, I could not have been happier. But, my desertion charge had been discovered and I was once more picked up and returned to Ft. Hood."

Church was unable to find anyone to support his wife and children, and the Army refused to assist him, so he and his wife were forced to give their newborn son, Austin, for adoption. Meanwhile, Church was court-martialed and spent several months in the brig at Fort Lewis in Washington State. Of that time he wrote: "I have lost so much because of the Army; I don't have custody of my daughters and I had to give up my son for adoption, all because of the Army. My wife is struggling to make ends meet now without me." On December 9, 2009, Church was released from the stockade, and discharged from the Army.

According to Gilberd, Church's story is not unique.

"When there's a parent dying who wants their son or daughter home with them, or there is a child with special needs who needs intensive parent support, or some other family emergency, the military is not willing to provide that support," she explained. "Military regulations say there should be assistance available to the soldiers, and superiors are supposed to help with this, but soldiers find that the opposite happens."

After remembering an incident during the first Gulf War, when "there were reservist mothers who were breastfeeding who were ordered to active duty," Gilberd shared another story.

"Jose Crespa came home from an Iraq deployment. He went home on leave and found his sister had developed schizophrenia. His mom was unable to deal with the situation, which was complicated by the fact that his sister had a child to care for. He went AWOL for a month [late 2007] to help them, then went back to Fort Carson and let the military know what was going on. They threatened him with a general court martial, and it took attorney intervention and his Article 138 Complaint (A Redress of Grievance procedure for when soldiers are wronged by their command) to get him out."

Crespa was lucky to have good attorneys, as he was discharged without any disciplinary

action and with an honorable discharge. However, things usually don't turn out this way.

"I wish I could say that's a common outcome," was Gilbert's comment on Crespa's case.

The Pentagon tracks hard numbers of soldiers going AWOL, and since October 2001, more than 50,000 soldiers have done so. But the military does not keep track of the reasons why soldiers go AWOL, or get hardship discharges, including when the reasons are those like Hutchinson's, Carter's, Church's, or Crespa's, or if the soldier has PTSD, or other mitigating circumstances.

According to Gilbert, cases like Crespa's "get lost in the shuffle," and added, "To most folks, this is just one more AWOL, or one more hardship discharge. There's no way to know how many soldiers are going AWOL and are trying to apply for hardship discharges, but counselors run across these cases often."

"Looking at these reasons would not reflect well on the military, but there are lots of these," Gilbert continued, "And to me, the irony is that there are procedures that should be available to these folks to get out, but the problem is that the command is not willing to follow the procedures. And it's all part of that "there's no family in your duffle bag" mindset. So it's all about keeping the numbers up, and having enough deployable service-members, and not letting too many people go."

As the military now finds itself preparing to deploy 30,000 more soldiers to Afghanistan and maintains more than 120,000 in Iraq, it is under tremendous pressure to maintain personnel in the ranks, which only exacerbates these problems.

"When a division is seen as having too many discharges or disciplinary problems, pressure comes down on them to not let so many people go," said Gilbert, "So the lower command gets subtle pressure for them to stop [losing personnel], and ultimately people become disposable. And not just the soldier, but their kids, or their mother, father, sister, or infant."

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