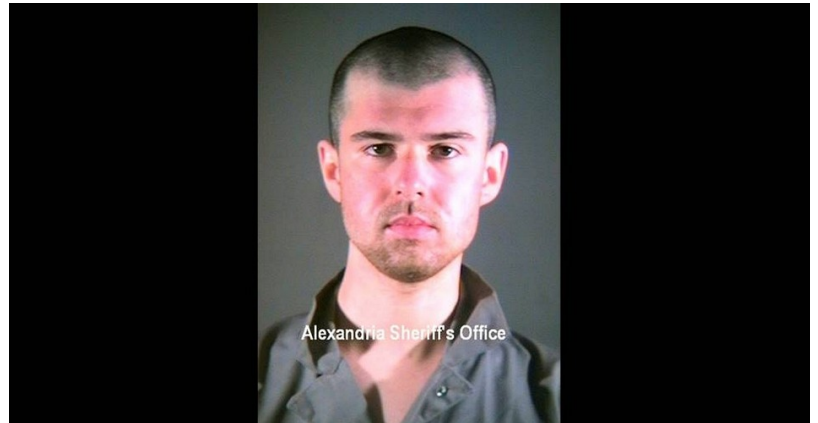




John Walker Lindh and the Question of Treason

Apparently, if a citizen takes up arms against the United States, his punishment is a mere 17 years in prison. At least that is how long John Walker Lindh — the “American Taliban” — served of a 20-year sentence.

Lindh left the federal prison in Terre Haute, Indiana, last Thursday, and is expected to take up residence in Virginia, where he will be supervised by his probation officer.



Lindh, a U.S. citizen, was captured in Afghanistan, fighting for the Taliban against American forces not long after the September 11, 2001 attacks upon the World Trade Center and the Pentagon. Initially charged with serious crimes such as conspiracy to kill U.S. nationals, Lindh cut a deal with prosecutors and took a 20-year sentence.

At his sentencing hearing, Lindh expressed contrition. “Had I realized then what I know now about the Taliban, I would never have joined them. I never understood jihad to mean anti-Americanism or terrorism.” Despite that statement, Lindh continued to advocate for global jihad. In March 2016, however, Lindh told a TV news producer that he intended to continue to spread violent extremist Islam after his release. Lindh also e-mailed his father that he was “not interested in renouncing my beliefs or issuing condemnations.”

Lindh even told the local NBC station in Los Angeles in 2015 that he believed ISIS was doing a “spectacular job.” This was while they were cutting off the heads of their opponents, and attempting to eliminate Christianity and even any form of Islam with which they did not agree.

Lindh reportedly said, “The Islamic State is clearly very sincere and serious about fulfilling the long-neglected religious obligation of establishing a caliphate through armed struggle, which is the only correct method.”

How did an American citizen, raised in a suburb north of San Francisco, end up in Afghanistan as a devout Muslim fighting for the Taliban against American forces? Apparently, Lindh converted to Islam at 16, and moved to the Middle East to learn Arabic upon graduation from high school. Once in Pakistan, Lindh trained with a radical Islamic group, then moved to Afghanistan and joined the Taliban. He claims to have met Osama bin Laden, who took credit for the 9/11 attacks.

Perhaps the most serious charge against Lindh was what happened *after* his capture. While in a detention camp in northern Afghanistan, he told CNN, he was present when a Taliban riot led to the killing of CIA officer Johnny Michael Spann. Lindh admitted that he participated in the revolt, but he was not charged with any role in Spann’s death.

Lindh’s actions — fighting against American forces while a citizen of the United States — seem to make him guilty of treason, which is usually punishable by death or life in prison. In Article III, Section 3, of the U.S. Constitution, treason is defined: “Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.” The



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Constitution also provides that a person can only be convicted of treason if there is testimony from at least two witnesses to the same overt act, or on confession in open court. Punishment for treason is left up to Congress, but is limited only to the person convicted.

First of all, Lindh's actions would appear to constitute a clear-cut case of treason — he certainly levied war against the United States and aided the enemies of the United States. As only a citizen can commit treason, some have raised the defense that he is also a citizen of Ireland. But he did not become a citizen of Ireland until 2013, long after he had made war upon American forces.

He has expressed interest in moving to Ireland, but he is unlikely to be allowed to leave the country.

In contrast to Lindh not being charged with treason, the charge of treason is thrown around rather loosely in the United States. Shortly before the inauguration of President Barack Obama, radio commentator Rush Limbaugh publicly expressed hope that Obama "failed." Some on the Left even declared Limbaugh guilty of treason for hoping an American president "failed." Clearly, Limbaugh had every right to hope Obama failed to carry out his left-wing agenda, and being opposed to that agenda in no way can be considered "levying war against" the United States.

Even President Donald Trump has been declared guilty of treason by radicals on the Left, simply because he was supportive of Russian President Vladimir Putin during a news conference.

This is exactly why the Founders opted to specifically define treason in the Constitution of the United States, i.e., because historically speaking, many kings and other political leaders have considered opposition to them or a policy as "treason." King Henry VIII even charged his wife, Anne Boleyn, with treason, because she was accused of being unfaithful to him in their marriage (Henry had it confused — it was he who was the unfaithful spouse).

The limitation on punishment to the person who actually committed the treason was placed in the Constitution because many tyrants in history have killed not only the alleged traitor, but often have taken the property, and sometimes even the lives, of the traitor's family.

An actual charge of treason has been brought less than 30 times in U.S. history. The most famous case was early in American history, when the Jefferson administration brought charges against Aaron Burr. Burr, Jefferson's vice president from 1801-1805, was arrested in Alabama and charged with plotting to take some Spanish territory in the west, and invite western states to join him in the creation of an independent republic.

Burr was found not guilty on the technical ground that he had not levied war against the United States, nor had he aided the enemies of the United States. While the decision greatly angered President Jefferson, the jury's decision did set a precedent that treason charges would be very difficult to prove — which is probably a good thing.

Neither Lindh nor Burr should be held up as examples of patriotism, for sure. At the same time, it is probably good that charges of treason are so difficult for the government to successfully prosecute — otherwise Rush Limbaugh and many of us who oppose the socialist schemes of the Left might find ourselves facing treason charges when Left-leaning individuals occupy the Executive Branch.

But if one is not going to be at least charged with treason after *fighting against U.S. forces in a foreign country*, then one wonders when the charge would ever be made.

2002 photo of John Walker Lindh: AP Images



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