

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

James Salsman,
Petitioner, *pro se*,

v.

U.S. Nuclear Regulatory Commission (NRC),
and the United States, Respondents

Case No. 08-74043;

NRC nos. PRM-20-26
and NRC-2005-0017

Petitioner's Letter of Supplemental Authority

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January 22, 2009

Clerk
United States Court of Appeals
Post Office Box 193939
San Francisco, California 94119-3939
original and four copies per Circuit Rule 28-6, and electronically via PACER

Dear Circuit Clerk:

In accordance with Federal Rule of Appellate Procedure 28(j), I am advising you of the attached report of an Italian court's decision regarding similar subject matter because of its significant relevance to the scientific literature, in particular, the literature cited in the Supplemental Table of Authorities beginning on page 9 of Petitioner's Reply

Brief, and because of its pertinence to the legal reasoning surrounding that scientific literature.

The body of this letter does not exceed 350 words. The attachment is a translation from the original Italian.

Certificate of Service

I certify that a copy of this letter was served on the NRC's Counsel, Mr. Maxwell Smith, by electronic mail to Maxwell.Smith@nrc.gov of January 22, 2009.

Sincerely,

(signed)

James Salsman

Petitioner

proceeding without assistance of counsel

Attachment

Historic Ruling of an Italian Court Recognizes the Link Between Cancer And Depleted Uranium

January 13, 2009 - Stefania Divertito

original: <http://www.peacelink.it/disarmo/a/28323.html>

A ruling that will make history has been issued by a court in Florence: the Italian Ministry of Defense will have to compensate 545,061 euros to Gianbattista Marica, parachutist who was deployed in Somalia, during the Ibis mission, for eight months between December 1993 and July 1993.

Marica is a former Italian soldier who got ill with cancer. The ruling is important not only for the amount of compensation, but also because it affirms an important principle: the causal link between the presence of depleted uranium and the paratrooper's disease.

In court papers dated December 17, 2008, (but distributed yesterday by Falco Accame, President of Anavafaf, an association that assists victims enrolled in the armed forces, to whom Marica himself requested assistance in 2001), shows the opinion of an expert who maintains the existence of a causal link between Hodgkin's disease (the paratrooper's disease, now in remission) and exposure to depleted uranium.

The expert, appointed by the court, primarily claims that the conclusions of the scientific inquiry of the Mandelli Commission, according to which this link can not be found, "lack foundation because of the mistakes in the research process used." Then comes the examination of responsibility: the Ministry of Defense - argue the judges in the grounds of the ruling that since yesterday was made public and is available on the Internet [http://74.125.77.113/translate_c?hl=en&sl=it&tl=en&u=http://www.altalex.com/index.php%3Fidnot%3D44275&usg=ALkJrhhdFIUFRSLTK6qiuBZ3oqgQZ96vow] - has not provided adequate protection measures for the participants in the mission in Somalia, despite being "in the eyes of international opinion, the danger

of that specific theater of war, and despite the adoption of other contingencies and special preventive measures.” According to the judges, “beyond the recommendations that were or should have been known to the ministry, the fact that the U.S. military had imposed the adoption of special protective measures, even in the absence of further knowledge, should have alerted the Italian authorities.”

In any case there was on the part of the Ministry, “an attitude not based on the principles of caution and responsibility, which resulted in having ignored information, in its possession since a long time, about the presence of depleted uranium in areas covered by the mission and the dangers to the health of soldiers linked to the use of this metal, in not having taken all necessary measures to protect the health of its military personnel, and in having ignored the precautions taken by other countries involved in the same mission, despite the fact that the adoption of these preventive measures had been repeatedly reported to the Italian military.”

“Marica pointed out the fact that the U.S. military in Somalia, even at 40 degrees Celsius in the shade, operated with suits, masks, gloves and goggles, while the Italian soldiers were in shorts and tank tops,” Accame declared, speaking of the historic ruling and recalling that “the Italian departments did not know of the danger until 22 November 1999, when the rules for protection were applied to the military personnel destined to the Balkans.”

Accame poses another question: “What is the significance of the ruling on 17 December? The very next day, minister La Russa during a press conference announced that it had earmarked 30 million euros for the victims of depleted uranium and nanopathologies. Is it a coincidence? Or did the minister want to show a cooperative attitude given the ruling just issued? In any case” - concludes Accame - “we joyfully welcome this result.”