

Navy officer fights exile from sea

Reprimand that killed career was vendetta, he says

By Ed Offley
P-I Military Reporter

BREMERTON — Navy Lt. Cmdr. Walter Fitzpatrick surveys the ruin of a once-promising career with dogged optimism and even a touch of defiance.

"I'm not a quitter," says Fitzpatrick, a beefy man with prematurely gray hair and two steel pins in his right shoulder from a helicopter crash in the Persian Gulf in 1987.

An officer identified by his superiors as an excellent performer destined for senior rank throughout most of his 20-year career, Fitzpatrick today is a sailor exiled from the sea, working in a small Bremerton Navy office to resurrect his professional life in a case that fellow officers and a congressman say may represent justice wrongly done.

Fitzpatrick is struggling to clear his name of a court-martial conviction that left a career-destroying letter of reprimand in his personnel record.

Navy records state that Fitzpatrick failed to properly supervise the spending of his ship's "morale, welfare and recreation" money — nongovernmental money raised for the crew's use through proceeds from the ship's retail store — and while he did not personally gain from the money, his decisions violated Navy policies.

The money is usually used by the crew to pay for items such as TV and audio equipment, recreational supplies and other non-military gear.

Fitzpatrick's five-year legal nightmare began with a shipmate's tragedy, the 1988 murder of a Navy officer in Greece who was the brother of Fitzpatrick's commanding officer. At the time, Fitzpatrick was the executive officer of the supply ship USS Mars, second in command to Capt. Mike Nordeen.

On June 28, 1988, Fitzpatrick woke Nordeen to tell him that his brother, Capt. William Nordeen, had been murdered by terrorists

The next day, the ship's crew voted to use the recreation money to send a delegation of crewmen and their wives to the slain officer's funeral at Arlington National Cemetery. The \$10,400 expenditure became the centerpiece of a naval investigation that resulted in a 1990 court-martial conviction against Fitzpatrick on one count of financial negligence.

Fitzpatrick's ship's headquarters says spending the money to send the sailors and their wives to the funeral was improper.

Fitzpatrick and Mike Nordeen, in separate interviews, said they believed — and continue to believe — that spending the money on the funeral trip was proper.

Fitzpatrick has accused officers of his ship's administrative command of a "vendetta" against him after he criticized the Oakland headquarters for inadequate support on a number of issues. Fitzpatrick said the staff officers retaliated by trumping up charges against him to drive him from the service.

Navy officers involved in prosecuting Fitzpatrick on financial negligence charges deny any hidden motives.

"I can't fault the individual's heart but I can fault his judgment," said retired Rear Adm. John Bitoff, who presided over the investigation and appointed the court-martial against Fitzpatrick. "This was not some kind of a witch hunt."

But evidence compiled by Fitzpatrick has prompted some Navy officers familiar with the case to question the investigation and subsequent conviction.

Rep. Norm Dicks, D-Wash., requested independent investigations of the case by Secretary of the Navy John Dalton and the Department of Defense.

"This is not something we do typically," said a Dicks aide familiar with the matter. "But by the evidence . . . it's quite possible that the system did not work this time, so we are asking them to re-evaluate it with an independent jury."

In addition to a new trial, Fitzpatrick says he wants a criminal investigation into officials who prosecuted him.

The Navy last month disagreed with Dicks' request for a new trial. "There is nothing presented which warrants a reconsideration" of the conviction, responded Rear Adm. E.E. Grant, acting Navy judge advocate general.

Nordeen said that he was ultimately responsible for every act of his subordinates, but was never charged with any offense.

Fitzpatrick said he believes that staff officers then serving under Bitoff used the fund investigation as a pretext to drum up false charges against him.

Upon return from the Persian Gulf in 1989, Fitzpatrick said he had delivered a 2½-hour briefing to Bitoff's chief of staff in which he criticized inadequate headquarters support to the ship on a number of issues.

Several months later, Fitzpatrick said, the same staffers instigated a series of audits and investigations that led to formal court-martial charges in 1990.

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Fitzpatrick accuses the Oakland command of these wrongful steps:

■ Obstruction of justice and unlawful command influence by Bitoff and his headquarters staff, including selection of jurors who came under the admiral's supervision.

■ Intentional falsification of investigative reports and official statements.

■ Intentional withholding of evidence that backed Fitzpatrick's innocence.

■ Attempted cover-up of criminal misconduct by the staff.

■ Perjury during the court-martial.

A special court-martial of three Navy officers in April 1990 found Fitzpatrick not guilty on 39 of 40 charges filed against him, including several other charges unrelated to the funeral trip. He

was convicted on one count of being "derelict in the performance of those duties (as executive officer) in that he willfully failed to follow proper procedures for the accounting and expenditure of Morale, Welfare and Recreational Funds. . . ." A career-ending letter of reprimand was placed in his personnel file.

In a review of the trial, the office of the judge advocate general of the Navy on Jan. 14, 1993, downgraded the solitary conviction to that of simple negligence.

Today, the former Navy officer who prosecuted the court-martial says the case brought against Fitzpatrick had little to support it. In an affidavit he provided to Fitzpatrick, former Lt. Matthew Bogoshian said that "the majority of charges . . . brought against Lt. Cmdr. Fitzpatrick seemed to have

little or no basis in reality, i.e. there was an absence of much if any evidence to support them."

But the damage had been done. Exiled to shore staff jobs, Fitzpatrick has twice been passed over for promotion to commander, and is due for mandatory retirement in July.

Fitzpatrick has won one victory to use in his quest for a rehearing. A panel of three senior Navy captains last summer evaluated Fitzpatrick for involuntary separation from the Navy. They concluded, "The board did not feel there was sufficient evidence (in the court-martial) to support a finding of guilty of dereliction of duty."

"His record of past performance . . . indicates that Lt. Cmdr. Fitzpatrick would be a continued valuable member of the U.S. Navy," the panel added.