

When the Battle Doesn't End

Modeled after diversion programs, veterans courts help defendants in nonviolent crimes avoid prison

Brian Peck went from decorated soldier to disabled veteran to criminal defendant.

As a New York Army National Guard specialist, he saw intense combat and wartime tragedy, including the death of two friends and the killing of an Italian intelligence officer by a U.S. soldier. He was severely injured in a Humvee accident and returned home in the fall of 2005 with traumatic brain injury, severe depression, anxiety and other wounds. Sleeplessness, nightmares and problems with family and alcohol plagued him until he wanted to kill himself.

Peck said he drank to numb the pain, and he was charged with drunken driving three times in 25 months.

Next week in Schenectady County, he faces up to four years in prison. If incarcerated for more than 61 days, he would lose half his disability payments and all his pension benefits until his release.

"I screwed up. I have to pay," Peck said recently. "I'm trying to get someone to work with me on this."

That's what Veterans Courts are doing nationwide. Some of Peck's problems might have been avoided, or treated earlier, if such a program existed in the Capital Region, veterans advocates and attorneys say.

In the special courts, veterans whose service is found to have caused them to commit nonviolent crimes can avoid jail or prison by pleading guilty and agreeing to counseling and monitoring. Veterans Courts are modeled after other diversion programs such as drug courts; defendants must undergo treatment, remain sober and stay out of trouble to avoid a sentence.

The first Veterans Court was formed in Buffalo in January 2008, and they have since been introduced in Rochester; Anchorage, Alaska; Tulsa, Okla.; and two counties in California. Several municipalities are opening, or considering opening, the courts this year, including Albany.

Albany County District Attorney David Soares said he is working with area law enforcement, veterans and the Department of Veterans Affairs to start such a court by summer's end. Some Iraq and Afghanistan vets in Albany County face charges related to drinking and driving, domestic violence, petit larceny and more, Soares said.

"I have some concern about the fact that we are not moving fast enough," said Lawrence Wiest, a Vietnam veteran and retired Albany County prosecutor who is going to Buffalo and Rochester this week to research their Veterans Courts for Soares. Peck's situation is not an isolated case, Wiest said.

Judges presently have discretion in sentencing, depending on the crime, and can take into account the background of defendants during presentencing hearings. Veterans Courts are developed and sanctioned by the state Office of Court Administration. The courts have resources such as judges, treatment beds, court monitors and more, though they can be folded into drug or mental health courts.

"It can't be set up overnight," OCA spokesman David Bookstaver said. "We will be open to a dialogue with District Attorney David Soares."

Peck's problems represent some of the well-documented difficulties that Iraq and Afghanistan veterans face in trying to readjust to civilian life. He is one of an estimated 360,000 American troops, including 12,000 in upstate New York, who suffered post-traumatic stress disorder in Iraq and Afghanistan, according to a recent Rand Corp. study.

The VA has judged Peck to have a 100 percent PTSD disability, for which he receives monthly benefits. A third arrest in February in Duanesburg for felony DWI could land him in jail, though there is no minimum sentence in the case, Schenectady County prosecutors say.

Crime rates for veterans remain dramatically lower than those for civilians, attorney and veteran Mathew Tully said. Of 1,600 criminal cases his Colonie firm has defended since 2002, about 50 involved Iraq and Afghanistan veterans, he said. Of those, half a dozen could have showed that combat service caused their unlawful behavior, making them eligible for Veterans Court, Tully believes.

Of more than 100 veterans charged with crimes who have appeared in the Buffalo Veterans Court, just two were returned to traditional criminal justice courts for repeat offenses, Buffalo Judge Robert Russell said. Most vets the court sees have drug or alcohol problems, mental illness or both, he said. The court offers vets counseling, and helps find lodging, employment and schooling. "It's going well," Russell said.

Mothers Against Drunk Driving in Erie County supports what the Buffalo Veterans Court is trying to do, said chapter president Elizabeth Obad, whose son was a 26-year-old Marine sergeant when he was killed by a drunken driver in Newburgh in 1994.

"I think it is a wonderful idea," Obad said. "We thank (veterans) and appreciate their service to the country, but we want them to get the help they need."

Peck came home to his wife, Jennifer, a different man. His mood swings and use of beer and vodka spiraled out of control, and Jennifer soon moved out.

By 2007, Brian Peck had hit rock-bottom. He was convicted of driving while impaired in Voorheesville and driving while intoxicated in Saratoga Springs.

"I started boozing, hoping that I wouldn't wake up," Peck said. He blamed his arrests for "poor judgment and wanting more liquor."

On the verge of suicide, Peck instead called the VA in Albany for help. He undergoes PTSD treatment twice a week with VA counselor Jason Gallo, whom he credits with saving his life.

But after months of sobriety, Peck says he watched a war movie and relapsed on Feb. 23. That's when police arrested him for DWI on Route 395. Like with past arrests, Peck says he refused a breath test. He's due in court on Wednesday.

Schenectady County Assistant District Attorney Michael Tiffany would not comment on the pending case, other than to say that Peck faces felony charges because of a past conviction. Peck also was convicted of driving while impaired in Rotterdam as a 22-year-old in 1999.

The former National Guardsman was hospitalized in the VA for a week after his February arrest. Jennifer Peck recently moved back into the family home, and her husband has a long-term plan if he can resolve his legal problems. "I'm going to make it," Peck said. "I

bought some property up in Maine. That's my dream. I'm going to farm it."