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The Budanov Case

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Our “patriots” can rest in peace: Colonel Budanov whom they call the “true Russian officer” is about to walk out of the courtroom of the North Caucasus Military District.¹ He will celebrate his victory over the country’s judicial system and leave for home, to join his wife and children in Buryatiya, where he has not visited since February 2000. Thus the court hearings on the well publicized Budanov case are coming to an end, a happy end for Budanov personally and for all those who have committed, and are committing, war crimes in Chechnya and justify them by war and by reciprocal cruelty of the warring sides.

The acquittal of the Colonel has become possible thanks to the two specially organized forensic medical examinations. Today we publish their findings, abridged and with our comments. Our goal is to demonstrate how a rapist, killer, and kidnaper could be made anew into a courageous army colonel with a glorious combat service record.

As of now, Budanov, a Colonel of the Armored Corps, who, on March 26, 2000, kidnapped and then strangled a Chechen girl, Elza Kungaeva, has already gone through three forensic psychiatric evaluations.

Two of them were performed soon after the event: in May and August of 2000. Both of them found Budanov of sound mind, well oriented and communicative. Though both noted organic damage of the brain that resulted in Budanov suffering “personality and behavior disorders”.

¹ On July 3, 2002, yet another examination was made of Budanov at the Serbsky Center. On December 17, 2002, he was again declared not responsible. On December 31, the court ordered compulsory in-patient psychiatric treatment for him.

On February 28, 2003, the Supreme Court Military Collegium reversed the decision of the North Caucasus District Court and ordered a retrial before a new composition of the court. On July 25, Budanov was found guilty. He was sentenced to ten years of imprisonment and was stripped of his rank. It is believed that Budanov was convicted to help Akhmad Kadyrov win Chechen presidential elections.

On October 6, the Supreme Court Military Collegium left the sentence in force. On March 29, 2004, the Presidium of the Supreme Court confirmed the sentence, in response to an appeal filed by Budanov.

The court and the top military brass were not pleased with these findings: they meant that Budanov will have to answer to the full extent of the law. The court requested a new evaluation citing “vagueness, contradictory character, and incompleteness of the data” and discovery of “new and refined data” that are important for “determination of the true mental state of Budanov”. Unlike the previous two, the new evaluation was to be conducted in Moscow, jointly by the Central Forensic Medicine Laboratory of the Ministry of Defense and by the federal Serbsky Research Center for Social and Forensic Psychiatry.

The court formulated its questions to the experts as follows:

- *Is B. is suffering or suffered before from a chronic mental illness?*
- *When committing the acts he is being accused of, was B. in the state of a temporary pathological disorder of psychic activity?*
- *Which psychological idiosyncrasies of his personality could exacerbate or influence his behavior in the situations under investigation?*
- *When committing the acts he is being accused of, was B. in an emotional state (stress, frustration, affect)?*
- *Were actions of Kungaeva provoking B.'s behavior?*
- *What would be the assessment of the state B. was in when committing his actions toward Kungaeva, in the living compartment of the Mobile Headquarters Vehicle on the night of 26 – 27, March 2000, in the case:*
 1. *B. believed that that Kungaeva is a daughter of the “woman snipe shooter”, who refused to reveal whereabouts of her mother, while Kungaeva verbally abused him (She did not. This is introducing assertions that do not correspond to the facts: there is a multitude of testimonies in the prosecution files stating that Elza did not speak Russian. –A.P.) and tried to escape (She did not. – A.P.) ?*
 2. *Kungaeva attempted to take possession of the loaded weapon?*
 3. *B. believed Kungaeva to be the “woman snipe shooter” and confronted her with the photograph that exposed her as such (The photograph was never found,*

and we have only Budanov's own word that it ever existed. – A.P.)?

- *Was B. fit for military service, as far as his psychiatric state is concerned, at the time of committing the acts he is being accused of, and is he fit now? ...*

The question is on which facts the experts were to base their conclusions? This is what says the attorney for the victim relatives, Stanislav Markelov, “There were a number of episodes that simply did not exist for the new experts. On the other hand, they based themselves on the assertions that were never proven, but if they could be interpreted in favor of the Colonel, the experts treated them as facts”. But let the record speak for itself.

Here is the findings of the expert evaluation #1111 concerning Colonel Budanov, born 1963, charged under the articles 105, part 2, paragraph “c”, 126, part 3, 286, paragraphs “a” and “c” of the Penal Code of the Russian Federation. The reader will notice how everything, in the period from Budanov's birth to the start of the second Chechen war, is artfully presented to create the image of a war hero.

According to B., his birth was difficult and complicated by asphyxia which necessitated reanimation procedures. As testified by his mother and sister, he was a vulnerable child, if insulted could loose his temper, respond harshly, start a fight, was especially sensitive to unjust reprimands, at the same time always strived to protect the weak and the poor. In 1983, he entered the Kharkov Armored Corps Commanders School. In 1985 got married, has a son and a daughter. From 1995 to 1999 he took correspondence courses at the Academy of the Armored Corps. Always recommended himself positively. In January 1995, during the first Chechen campaign, he suffered cerebral concussion. As testified by his mother and sister, after returning from the first Chechen war, B.'s “disposition and character changed”, he became more nervous and irritable. In August 1998, he was appointed regiment commander, and in January 2000 he was promoted, ahead of time, to the rank of Colonel. In subordinated to him units, B. created the atmosphere of intolerance toward shortcomings and passivity. Has received government awards, twice was awarded the Order of Valor. None of his comrades ever noticed in him “psychiatric deviations”. B. has not been ever put under psychiatric or neurological observation. As B. testified, his regiment was continuously in action from the moment it arrived from the Transbaikalia Military District to Chechnya, which was October 10, 1999, and until March 20, 2000. In October and in November of 1999 he suffered cerebral concussions. He began experiencing constant headaches, could not stand sharp, loud sounds, became short-

tempered, demonstrated unconstrained behavior, began experience mood swings accompanied by outbursts of anger. B. testified that the heaviest battles were the battles in the Argun gorge, from December 24, 1999 to February 14, 2000. From January 12 to January 21 the regiment lost 9 officers and 3 privates. Many of them, as B. testified, were killed by a shot in the head fired by a snipe shooter.

On February 2, 2000, he came to Buryatiya, to his family, on home leave. As his wife has testified, he was irritable and nervous. He told her that his regiment once encountered in the Argun gorge the gunmen of Khattab, and in the battle they killed 15 of Khattab's field commanders. For that, his regiment was nicknamed by gunmen "beastly" and they put an enormous prize on B.'s head. B. was much upset by the fact that most of his officers were killed not in battle, but by snipe shooters, and he told his wife that he would not come back home until they "have finished up the last gunman". He did not wait for the end of his leave, and went back to Chechnya on February 15.

In fact, as testified by Captain Kuptsov, head of the regiment's medical service, Budanov's psychiatric state took "perverted forms" already in October of 1999. This is BEFORE the death of his comrades officers and BEFORE the battles in the Argun gorge. Budanov's mood would change two – three times in the space of 10-15 minutes: from well-disposed to raging set off by a trifle. This condition would become exacerbated during periods of combat activity. At the moments of rage, Budanov would throw at people around him, or on the floor, anything within his reach, including wall clocks and telephones.

B. was personally taking part in ground assaults and in hand-to-hand combat. During the battles in the Argun gorge he repeatedly attempted to retrieve personally bodies of the fallen. He blamed himself for the casualties suffered by his troops at the Hill 950.8. He could strike a subordinate, or throw an ashtray at him. In mid-March 2000 he threw the RGD-42 hand grenade into the stove in the officers' tent to reinforce his demand to tidy up inside the tent. The explosion happily caused no casualties and Budanov succeeded in making the officers maintain order in the tent.

*Starting mid-February 2000, the regiment commanded by Budanov had been held as reserve of the high command and stationed near the village of Tangi. Budanov's assignment was to carry search and recognizance missions, setting up ambushes, checking resident registrations of the villagers (**which is certainly not the function of the military – A.P.**), detention of suspiciously*

looking individuals. Budanov and his subordinates noted that the situation was very complicated: it was difficult to tell who was friend and who was foe, where was the frontline.

From the 22nd to the 24th of March 2000, the regiment was conducting search and recognizance missions. It had been decided to search some houses in Tangi, and there were found two “slaves” kidnapped 10 – 15 years ago in Central Russia. Having received this information, B. decided, on March 26, to check up personally on the situation in Tangi. **(Received it on the 24th and decided to check on the 26th? But the experts are not bothered by this kind of questions. – A.P.)** He detained two Chechens and ordered to bind them and put into the armored personnel carrier. One of them, when brought to the regiment’s quarters, produced papers that identified him as Shamil Sambiev **(the investigation never succeeded in finding him, but the experts did not question veracity of Budanov’s words and took it for a fact)** and asked to talk to Budanov in private. 15 to 20 minutes later, B. ordered to take him back to Tangi explaining that Sambiev agreed to show the houses where the gunmen’s supporters lived. While driving through the village, the Chechen was showing them the houses that would be of interest to them, including a white house at the south-east end of the village, where the “woman snipe shooter” lived. Besides, B. kept a photograph portraying 2 – 3 men and 3 – 4 women, all holding weapons. As B. has testified, he decided not to wait with detention of the “woman snipe shooter”. On this day, around 3 P.M. he had alcoholic beverages during lunch at the officers’ canteen. Some time after 11 P.M. he decide to go personally to the house #7 on Zarechnaya St.. The armored personnel carrier stopped by the house #7, where the Kungaev family lived. He came into the house accompanied by the armored carrier commander Grigoriev and by Corporal Li Yen Shu. There they found Elza Kungaeva, born 1982, and her four underaged brothers and sisters. B. ordered to detain Elza Kungaeva. She was wrapped into a bedspread and put into the personnel compartment of the carrier. Then she was taken to the regiment’s grounds and carried into the van in which B. lived, and laid on the floor. Left alone with Kungaeva, B. demanded of her information on the routes the gunmen were using. When she refused, he continued to demand the information. He started beating her, striking with his fists and feet at her face and various parts of the body, which caused bruises of the inner part of her right thigh, of the mucous membrane in her mouth, and of the gums. Kungaeva tried to resist, pushed him away, tried to escape from the van. B., having been convinced of Kungaeva participation in the illegal armed formations² and that she had had a hand in the death of his subordinates, decided to kill her. He seized Kungaeva by her clothes, threw her on the bed, and kept squeezing her neck hard until she stopped exhibiting signs of life. Then B. called the

² This is the official Russian term for the Chechen rebels.

armored carrier crew and ordered them to burry Kungaeva outside of the regiment's grounds, which had been carried out, as Grigoriev reported to B. on the morning of March 27.

*According to B., he had initially no intentions to kill Kungaeva, and sexual advances were even further from his mind. But Kungaeva "burst into curses" against the Russian armed forces and against B. personally (**Kungaeva did not speak Russian – A.P.**). From that moment on, the conversation became heated. Kungaeva began telling him that the Chechens "will deal with him and his family". Kungaeva used obscene language to disparage him and the Russian servicemen in general. Finally, Kyngaev attempted to walk out of the van, which B. did not expect and had to apply physical force to restrain her. During the struggle, Kungaeva clothes were partially torn. (**The soldiers found her lying stark-naked - A.P.**) B. says that Kyngaev turned out to be exceptionally strong: she tore his T-shirt and tore off his neck his daughter's cross that he was wearing. In return, he tore off her outer clothes. Kungaeva shouted that she "has not shoot dead enough of them". When Kungaeva was on the van's second bed, the one furthest from the entrance, she tried to reach for B.'s handgun lying on the bedside table. B. intercepted her arm and, with his other hand, started to press her down into the bed, keeping his hand close to her throat. Meanwhile, Kungaeva continued voicing threats against him. At the same time, before his eyes were the faces of "every soldier and officer who died in the Argun gorge". B. does not remember what happened next. When he came to, he saw Kungaeva lying on the bed, not moving. He summoned the armored carrier crew. As B. testified, at that time Kungaeva had her skirt on, her jackets and her bra were on the floor of the first compartment, and he had his trouser on. Li Yen Shu advised to burry Kungaeva in the forest belt. Then B. told the crew to wrap the body into the blanket and take it away. B. warned the crew against the customary "control shot" to the head, meaning that they should not stoop to the practices of the Chechen gunmen. After the crew departed, B. lay down and went to sleep.*

As the soldiers who guarded the commander's van that night testified repeatedly during the investigation, when Budanov called them in, he had nothing but his swimming shorts on, and the girl lay stark-naked on her back on the bed. On the floor, on the bedspread lay her clothes: panties, jackets. Budanov said, "This is to you, a Chechen bitch, for Razmakhnin, for the boys who died on that hill". Then he asked, "Who is afraid of the dead?", lighted up a cigarette and ordered to wrap up the body and to burry it in the forest belt. He warned them not to say a word to anybody, or he would shot all of them dead. He said he had enough bullets for each of them: one bullet in the body and one bullet for the "control shot" in the head...

According to B., that day, around 1.30 P.M., he met with Major-General Gerasimov, the acting commander of the armed forces group “West”. (Commander Vladimir Shamanov, Budanov’s long time patron, was on leave, or investigators of the military prosecutor office would not be let onto the grounds of the Budanov’s tank regiment. – A.P.) Gerasimov began by accusing Budanov of burning down half the village and raping a 15 years old... He spoke in an insulting manner and used obscenities. B. produced his handgun, lowered the barrel and fired into the ground, the bullet hitting his leg. Then, according to B., he and Generals Gerasimov and Verbitskiy went into the regiment’s staff room. Later B. wrote an admission of guilt statement.

When questioned on October 5, 200, in the course of the preliminary investigation, he explained contradictions in his testimonies by being in a very bad state during the interrogation sessions that took place on March 27, 28, and 30 of 2000.

Based on the above, the present commission of experts has come to the conclusion that in regard to the acts B. is being accused of committing he should be considered NOT RESPONSIBLE BY THE REASON OF INSANITY. In response to actions by Kungueva (obscene insults, the attempt to take possession of his handgun, threats) B. has developed a temporary pathological disorder of psychic activity...

Response to the question #5. Actions of Kungueva, the victim, had been one of the causes of B. developing temporary psychiatric disorder.

Response to the question #6. Testimonies concerning B.’s alcoholic intoxication are contradictory and mutually exclusive. There are no conclusive data showing B. to have been in the state of alcoholic intoxication (Really? Why the data are no longer conclusive? – A.P.)

Response to the question #7. Presently, B. is capable of assessing his own actions. Should be subjected to psychiatric observation and treatment as an OUT-PATIENT. Falls in the category “C” : limited fitness for military service.

This is all there is to tell about the “right” expert evaluation. The gist of it: BLAME YOURSELF FOR HAVING BEEN KILLED, BECAUSE YOU SHOULD NOT HAVE RESISTED. And also: WHILE KILLING - WAS INSANE, HAVING KILLED BECAME NORMAL.

In Russia, outcome of an expert evaluation depends not on the facts of the case, but on who decides what the facts are. So, who are they who have undertaken to fulfill the socio-political demand of our times and have signed the cynical acquittal of Budanov? Who are these unsung heroes? Here they are:

- head of the department of expert evaluations, an expert psychiatrist of the highest category with 50 years of experience in the field of expert psychiatric evaluations, Professor T. Pechernikova³, M.D. (Chairman of the Commission);
- head of a clinical department, Professor F. Kondratiev, MD, with 42 years of experience in the field of expert psychiatric evaluations, named Distinguished Physician of the Russian Federation;
- F. Safuanov, Ph.D. in Psychology, 20 years of experience in the field of expert psychiatric evaluations;
- chief forensic psychiatry expert of the Ministry of Defense, A. Gorbatko, a Colonel in the Medical Corp;
- G. Fastovtsev, a Lieutenant Colonel in the Medical Corp;
- G. Burnyasheva, a psychiatry expert.

These are the people who did the main job: they pronounced Budanov not responsible at the moment he committed the crime, but sane before and after, and therefore fit to continue his military service and live in the society, and concluded the all that is required of him are monthly visits to a doctor.

³ Tatiana Pechernikova has been implicated in psychiatric incarceration of several Soviet dissidents, in 1970es, while she served as a staffer of the notorious Serbskiy Institute.

But who was the rapist?

It has been established that on the last night of her life the poor girl was also raped. Budanov denies it was him, but somebody did it. This is the unequivocal conclusion of the two forensic examinations conducted during the preliminary investigation. The first one was conducted by the 124th Central Laboratory of Forensic Medical Identification. Here are quotes from the Lab's report and from the minutes of the investigative experiment conducted on March 28, 2000.

The burial place is located in the forest belt, 950 meters from the regiment's command post. Discovered the body of a completely naked woman wrapped in a blanket. The perineum⁴ in the region of genitals is stained with blood, as well as the corresponding portion of the blanket. Forensic medical examination of Kungaeva's body was performed March 28, 2000, on the outskirts of the village Tangi-Chu, under conditions of sufficient natural lighting, by Head of the Medical Department of the 124th Laboratory, V. Lyanenko, , a Captain in the Medical Corp, and lasted from 12 A.M. to 2 P.M..

Wet dark red stains resembling mixture of mucus and blood are found on the genitals, on the skin of the perineum, on the back of the upper third of the thighs... The opening of the hymen is annular, 0.6 cm in diameter. There are radial, linear hemorrhaged lacerations of the hymen. In the buttocks fold there are dried up reddish - brown stains. The rectum mucus membrane is torn starting 2 cm from the anus, with the length of the tear 3 cm. The tear is filled with coagulated blood, which shows that victim was alive at the time she sustained the injury. On the blanket, on the side facing the body, there is a wet dark brown stain resembling blood. The stain the size 18x20x21 cm is located in the part of the blanket situated in front of the perineum area. The following items have been delivered together with the body: 1. A wool jacket. The back torn (cut) vertically apart... 3. A T-shirt that shows signs of having been worn. The back torn (cut) vertically apart. 4. A bra that shows signs of having been worn. The left back flap cut (torn) apart. 5. A panties that shows signs of having been worn. The taking of tissue samples for forensic histology has not been performed because of lack of facilities for storage and conservation. Vaginal and rectal smears have been taken using gauze tampons. A gauze napkin has been used for taking a blood sample. The samples and the items listed above have been transferred to the investigator.

⁴ The general region between the anus and the genital organs.

The tearing of the hymen and of the rectum mucus membrane discovered on the body of Kungaeva were the result of penetration of a rigid, blunt object (or objects), such as an erected penis or the butt end of a standard issue digging tool. At the same time, all the experts came to the same conclusion: the vaginal and rectal injuries had been sustained while Kungaeva was still alive.

Recalling that Budanov let the crew of the personnel carrier into his van when Kungaeva was already dead, the things don't look pretty, not pretty at all. To make them prettier the court requests a new forensic expert examination, so that an officer and a bearer of two Orders of Valor would not be also a rapist, at least on paper.

This is what the new, politically correct, forensic examination report has to say: “The tearing of the hymen and of the rectum mucus membrane was posthumous, inflicted after the contractile capabilities of the live tissue had been completely lost”. That is, somebody, of course, did violate Kuganov’s body, but no, not Budanov, because he has an alibi: having killed Kuganov he went to sleep. To eradicate all doubts, the signs of copious bleeding observed by the forensic expert Lyanenko have become “traces of blood in the genital area that are not inconsistent with the conclusion of posthumous character of the injuries”. “Objective reasons” are found to deflect the rape charge: “The unjustified refusal of the forensic expert to take samples for forensic histology analysis presently makes it impossible to advance better substantiated arguments...”

This is true: no histology samples had been taken. There was a war out there and no place to keep the tissue samples (is it called “unjustified refusal”?), and it is no wonder that the war helped a soldier to escape responsibility. All pathologists agree that without histology any attempt to prove Budanov the rapist are doomed to failure!

As the result, the experts easily came to the required conclusion: “There are no grounds to suggest that the posthumous injuries have been caused by an erected male sex organ. The results of the forensic examination of the body and of the material evidence do not provide grounds to conclude that a forcible sexual act against Kungaeva took place.”

THERE WAS NO RAPE. AND THOSE WHO THINK OTHERWISE CAN GO FLY A KITE.

And who are the heroes this time? This forensic expert commission report exonerating Budanov is signed by:

- Deputy Director of the Russian Federal Center for Forensic Medical Examinations of the Ministry of Health, I. Gedygushev, M.D., a Distinguished Physician of the Russian Federation;
- Head of the Department of Complex Examinations of the same Center, A. Isaev, M.D.;
- a forensic examiner of the Department of Complex Examinations of the same Center, O. Budyakov, M.D., a Distinguished Physician of the Russian Federation.

These people sought to remove a very dirty stain from the tarnished image of the Russian army. But history is not something that can be altered by a made – to - order forensic report, and the true story of how Elza Kungaeva, a girl from the village of Tangi-Chu, has died will eventually become free of the politically expedient lies.

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[TO THE CONTENT PAGE](#)