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# Ex-Marine's case goes to Riverside County jurors

The panel begins deliberations in Jose Nazario's trial. The jury hears a tape in which he appears to admit ordering the 2004 killings in Fallouja.

By Tony Perry, Los Angeles Times Staff Writer  
August 28, 2008

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A federal jury in Riverside on Wednesday began deliberating the fate of a former Marine sergeant accused in the killing of four Iraqi prisoners, a case that both sides argued in closing arguments could affect the United States' mission in Iraq.

Defense attorney Kevin McDermott told jurors that a guilty verdict could endanger U.S. soldiers and Marines by making them second-guess themselves rather than risk being prosecuted by civilians.



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U.S. Atty. Jerry Behnke said a failure to convict former Sgt. Jose Luis Nazario could undercut U.S. efforts in Iraq by signaling that the U.S. condones executing unarmed, nonresistant prisoners.

Nazario did not testify during the trial. But jurors heard his voice Wednesday on a recording in which he appeared to admit that he had ordered the killing of four prisoners during the first hours of the battle in Fallouja on Nov. 9, 2004.

Nazario's case gained national attention because it is the first time that a former member of the service has been charged in federal court for an alleged combat crime. Nazario has pleaded not guilty to charges of manslaughter, assault and use of a firearm.

Only one member of the jury of three men and nine women has served in the military.

Nazario's supporters have insisted that civilians cannot comprehend combat. To overcome that objection, prosecutors called half a dozen Marines to explain Marine culture and training.

As their final piece of evidence, prosecutors played the recording of a phone call between Nazario and Sgt. Jermaine Nelson, one of two Marines in Nazario's squad facing charges at Camp Pendleton.

During the call, recorded at the request of the Naval Criminal Investigative Service,

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Nelson sought to get Nazario to incriminate himself.

On the tape, Nelson, using a derogatory word for the Iraqis, asked Nazario who gave the order to kill the prisoners. Nazario replied, "I did."

He then told Nelson they had no time to process the Iraqis as prisoners because "we were moving."

"What we did wasn't illegal. . . ," Nazario said. "You can't play Monday-morning quarterback."

The conversation took place Jan. 8, 2007, as military and civilian investigators were probing the deaths. By then, Nazario had left the Marines and was a probationary Riverside police officer. After playing the tape, prosecutors rested their case. Defense attorneys rested without calling a single witness.

On Tuesday, a former Marine testified that he had overheard Nazario urging another Marine to help kill the Iraqi prisoners and later heard a gunshot and came upon Nazario holding his M-16 over a dead prisoner.

In instructions to the jury, U.S. District Judge Stephen Larson emphasized bans on killing prisoners, saying, "Warfare is regulated by law."

In closing, Behnke told jurors to put aside their views about the war and combat.

"This case is not about Iraq and whether you support or oppose the war," he said. Behnke also told jurors it wasn't their role to determine whether it was right for civilians to judge combat incidents.

McDermott, arguing that a guilty verdict would hurt Marines, said, "Do not make the job harder for young men."

Nelson and Sgt. Ryan Weemer, who refused to testify in Nazario's trial, face murder charges in military court.

In interviews before they retained counsel, they said that, upon orders from Nazario, they each killed a prisoner and that Nazario killed two.

tony.perry@latimes.com



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Discussion

This discussion has been archived. Thank you for participating. QUESTION: Do you think former members of the military should be tried by civilians in alleged combat crimes?

- I am glad Nazario off'ed those P'sOS. Marines go to war to kill, not to distinguish and interpret the enemy's feelings and intentions. A lot of people in this thread seemed to have forgotten that these same scum bag insurgents are the same low lifes that want to kill us. The DA and their idiot DOD lawyers should be ashamed for even trying this scam. Good news is Nazario is FREE like he should have been all along. SEMPER FI!!!!!!  
Submitted by: GET SOME!  
10:02 PM PDT, Aug 29, 2008
- We have to support our troops! The widespread cries of Americans hearing of the slaughter of Native American peoples. Some things never change. Like police officers who shoot teenage people of color with hundreds of rounds. And think of all those good Christians, who enjoyed period lynchings without fear of prosecution. Its the American people who should be on trial.  
Submitted by: gilbert  
1:24 PM PDT, Aug 29, 2008

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3. Sure is easy for all the PC in CA. Ever pick up all the pieces of your squad buddy after a IED and stuff them in a bag to send home to his family. I'll have the merlot. Get a life...idiots.

Submitted by: Billy Bop  
1:23 PM PDT, Aug 29, 2008

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