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Jury's crash course in Marine culture

Jurors in a former sergeant's civilian trial must decide whether killings during combat in Iraq were criminal.

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In what the prosecution calls Marine Corps 101, civilian jurors in a landmark trial in Riverside are being tutored in a "warrior culture" that trains young men not only how to kill the enemy but, just as importantly, when to show restraint.

Barring unforeseen events, jurors in the case of the United States of America vs. Jose Luis Nazario Jr. will be asked this week to do something no civilian jury has done in modern times: determine whether a member of the U.S. military committed criminal acts in combat. Only one of the jurors has military experience, a stint in the Navy a decade ago.

Nazario, 28, a former Marine sergeant and squad leader, is accused of manslaughter and assault in the killing of four Iraqi prisoners on the first day of Operation Phantom Fury, the Marine-led battle in November 2004 to rout armed insurgents from Fallouja.

He left the Marine Corps in 2005 and was no longer subject to military law when the investigation began in 2006.

Regardless of the verdict, the case has established a precedent that the Military Extrajurisdiction Act, passed in 2000 to allow Defense Department civilian employees and contractors to be prosecuted for crimes overseas, also applies to military members who leave the service before their alleged crimes are discovered.

Two fellow Marines who remain on active duty face military charges in the case. When Sgts. Ryan Weemer and Jermaine Nelson go to court-martial, their jurors will be Marines and sailors, most of whom will have had combat experience in Iraq, Afghanistan or both.

No one will have to tell those jurors what a rifle squad is, the difference between an M-16 rifle and a .50-caliber machine gun, that RPG stands for rocket-



KURT MILLER/Riverside Press-Enterprise

JURY OF PEERS: Marine Sgt. Ryan Weemer, left, remains on active duty and faces a court-martial in the case.



KURT MILLER/Riverside Press-Enterprise

COURT-MARTIAL: Marine Sgt. Jermaine Nelson, right, also will be judged by Marines and soldiers in the case.

propelled grenade and IED stands for improvised explosive device, or that a "daisy chain" is a series of IEDs buried by insurgents to kill a large number of Americans.

These were among the details the three men and nine women on Nazario's jury learned last week.

At one point, a juror complained that she was having trouble keeping up with all the acronyms. The court reporters also have had trouble with the speed and volume of jargon.

U.S. District Judge Stephen Larson ordered the lawyers and witnesses to slow down.

Meanwhile, before calling witnesses specifically about the events of Nov. 9, 2004, prosecutors have brought in retired and active-duty Marines to discuss Marine training, Marine history and culture, and the meaning of the motto of the 1st Marine Division: "No better friend, no worse enemy."

All have testified that recruits are taught from boot camp on not to harm prisoners or noncombatants. The same point is emphasized at the School of Infantry, which all Marines attend after boot camp, they said.

As part of their training for Iraq, witnesses have told the jury, Marines are lectured about the laws of war that prohibit maltreatment of prisoners. They hear the same message after their battalions arrive in Iraq. Nazario, witnesses have said, would have heard the warning too.

Defense attorneys, in cross-



NICK UT/Associated Press

CIVIL TRIAL: Jose Luis Nazario Jr.'s jurors are civilians, most of whom have no military experience.

examination, have pointed out that erudite lectures by Marine lawyers and scenarios presented before deployment can seem far away during combat, especially in Fallouja, the site of what is considered the most intense urban fighting since the battle for Hue City in Vietnam.

"Civilians were leaving [Fallouja] and every jihadist who wanted to fight was sneaking in the back door," defense attorney Kevin McDermott said of the period when Nazario was there. Insurgents, he said, do not abide by rules that bar the killing of civilians, and they often hide behind women and children.

Prosecutors allege that Na-

zario's squad, assigned to rapidly "clear" houses of insurgents, stormed a house in which they found four Iraqi males, who immediately surrendered and were handcuffed. Nazario allegedly then called his superiors on the radio to tell them about the prisoners. "Are they dead yet?" an unidentified Marine allegedly asked him on the radio, prompting Nazario to kill two of the prisoners and to order Weemer and Nelson to kill one prisoner each.

To describe the training given to Nazario and other Marines deploying to Iraq in 2004, prosecutors called Maj. Daniel Schmitt, who ran the mock Iraqi village created in an abandoned apartment complex in Riverside to give recruits a taste of combat stress.

Schmitt was ordered to Riverside from his duty station in Iraq to testify. Once his testimony is finished, he will return to Iraq, where he is a future operations planner.

In his crisp green uniform, Schmitt testified last week that he was asked by the commanding general of the 1st Marine Division to devise as realistic a training regimen as possible. "We simulate as best we can the fear and stress," he said.

When Schmitt described combat, several jurors moved forward in their seats, eyes widening.

In combat, Schmitt said, a Marine's senses can fail to function or become extraordinarily acute. Many Marines, he said, lose their ability to hear when bullets are flying. Some suffer

tunnel vision. There is little time for discussion and none for debate.

Marines have to depend reflexively on their training and trust their buddies to do the same, Schmitt said as jurors scribbled notes.

"You're not going to eliminate the chaos of combat," Schmitt said. "But we're going to teach Marines how to function in it better than anyone else."

A juror looked shocked when Schmitt said Marines are taught that some Iraqi women hide bombs under their clothing by pretending to be cradling babies. Knowing when not to shoot, he said, "is the difficult part of our profession."

Schmitt repeatedly characterized the war in Iraq as a fight between the U.S. and insurgents for the "moral high ground."

A similar fight could be said to be going on inside the courtroom. Defense attorney McDermott, in his opening, asked jurors "not to convict a Marine for doing his duty" to protect other Marines.

Prosecutors asked jurors to uphold the Marines' values of "honor, courage and commitment" by validating the American ideal that its fighting men do not kill prisoners.

In the courtroom, the defendant wears a small American flag in his lapel.

So does the lead prosecutor, Assistant U.S. Atty. Jerry Behnke.

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