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Ex-Marine acquitted in Iraqi prisoner deaths

Jose Nazario, charged with killing four detainees, is found not guilty by a Riverside jury. His case marks the first time civilians decided whether an ex-serviceman committed a combat crime.

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In the first civilian trial in modern times of a former member of the U.S. military for alleged combat crimes, a Riverside jury Thursday acquitted a one-time Marine sergeant in the killings of four unnamed Iraqi prisoners in Fallouja.

After deliberating less than six hours, the panel found Jose Luis Nazario, 28, not guilty of manslaughter, assault and use of a firearm in the shooting deaths of the Iraqi men, taken prisoner by Nazario's squad during house-to-house fighting in late 2004.



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"Justice was finally served today," Nazario said after his acquittal. "I want the same justice for every Marine, sailor, soldier serving in harm's way."

The case tested the ability of civilians to comprehend what one Marine officer described in court as the "chaos and fear" of combat. Only one of the 12 jurors had any military experience.

Although they said they found him not guilty mainly because the prosecution had not presented forensic evidence, the names of the dead or any eyewitnesses to the shootings, several jurors acknowledged that they also did not feel qualified to judge a Marine's actions in the midst of a battle.

"You don't know what combat is until you're in combat," said jury forewoman Ingrid Wicken, a physical education teacher at Riverside City College. "It's an extraordinary situation, and there just wasn't enough evidence."

The case has been unusual from the start.

The shootings first came to light when a Marine reservist who had been in Nazario's squad applied for a job with the Secret Service and described, in an interview, his involvement in killing prisoners. Marine Sgt. Ryan Weemer's admission launched an investigation by the Naval Criminal Investigative Service.

Weemer and another member of the squad, Sgt. Jermaine Nelson, who are still on active duty, face murder charges in military court in the shootings.

But Nazario was beyond the reach of the military justice system by the time the investigation started. He had left the Marine Corps without signing up for the reserves and reentered civilian life as a probationary police officer in Riverside.

When investigators determined that Nazario should be charged, the only method open to them was to use the Military Extraterritorial Jurisdiction Act, passed by Congress in 2000 initially to address crimes allegedly committed by Department of Defense civilian employees and contractors overseas.

If he had been in the reserves, Nazario could have been recalled to active duty and sent to court-martial.

During the five-day trial, prosecutors brought in half a dozen Marines to explain Marine culture and training to the jurors. Witnesses hammered home the point that Marines are trained not to harm prisoners.

Prosecutors also played a tape-recorded phone call in which Nazario appeared to admit ordering the killings. They called several Marines in Nazario's squad who were in the house during and immediately after the shootings.

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One former Marine testified that he saw Nazario standing over a dead Iraqi and holding an M-16. Another testified that Nazario tried to talk him into helping with the killings. A third testified that he rushed into the house just after Nazario, the squad leader, had left -- and that he found four dead bodies, all shot at close range, three in the head, one in the chest.

But jurors said they were left with too many unanswered questions.

"There just wasn't enough real evidence," said juror Ted Grinnell, a Navy veteran. "People heard the shots, but nobody saw who did the shooting. That's not enough."

Cheers erupted in the court from Nazario's family members and a small group of former Marines and off-duty Riverside police officers when the verdict was read.

After the defendant was charged in the case, the Riverside Police Department fired him. His lawyer said he planned to petition the department for reinstatement.

Nazario did not testify and remained stoic throughout the trial. He broke into tears at the verdict. Outside the courtroom, he called his wife, Diette, in New York. She could be heard screaming with joy and calling to her 2-year-old son, "Gabriel, Daddy is innocent!"

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