

# SoCal jury gets case of ex-Marine in Iraq deaths

By CHELSEA J. CARTER – 1 hour ago

RIVERSIDE, Calif. (AP) — A federal jury on Wednesday began deliberating whether a former Marine squad leader committed manslaughter in Iraq, marking the first time in which civilians will decide whether the actions of a military service member during combat were criminal.

A prosecutor urged the jury to convict Jose Luis Nazario Jr., saying he killed unarmed detainees on Nov. 9, 2004, in Fallujah, and must be held accountable for violating his duty as a Marine.

"If you find the defendant did not abide by the rules, no matter how he might have fought or how many days he spent in the military, if he violated the 'law of war' that day, you have a duty to find him guilty," Assistant U.S. Attorney Jerry Behnke said during his closing argument.

Nazario's attorney, Kevin McDermott, told jurors they could not convict the former Marine sergeant of an alleged crime in which there were no bodies, no identities and no forensics.

"The government has fallen woefully short" with its case, McDermott said in his closing argument, hours after the defense rested without calling a single witness.

Nazario, 28, is the first former military service member brought to trial under the Military Extraterritorial Jurisdiction Act, which was written in 2000 and amended in 2004 primarily to allow prosecution of civilian contractors who commit crimes while working for the U.S. overseas. It also allows the prosecution of military dependents and former military service members accused of committing crimes outside the United States.

Prosecutors allege Nazario either killed or caused others to kill four unarmed Iraqi detainees in Fallujah during "Operation Phantom Fury," which resulted in house-to-house fighting. The battle is considered one of the fiercest of the war.

Nazario pleaded not guilty to voluntary manslaughter, assault with a deadly weapon and discharging a firearm during a crime of violence. If convicted of all the charges, he could face more than 10 years in prison.

The case came to light in 2006 when Sgt. Ryan Weemer, Nazario's former squadmate, volunteered details to a U.S. Secret Service job interviewer during a lie-detector screening that included a question about the most serious crime he ever committed. That screening was not admitted at Nazario's trial.

Weemer and another Marine, Sgt. Jermaine Nelson, face military charges of unpremeditated murder and dereliction of duty. Both maintain their innocence, and both were found in contempt of court for refusing to testify against Nazario.

Other former Marines testified during the five-day trial that they did not see Nazario kill the detainees but heard the gunshots.

Behnke, the prosecutor, argued that the evidence showed the detainees "had given up and surrendered" before the shooting.

The defense argued that a guilty verdict would only make service members second-guess their actions in combat.

"Don't make the job harder on those young men," McDermott said.

