

2 Marines refusing to testify ordered to court

By CHELSEA J. CARTER – 3 hours ago

RIVERSIDE, Calif. (AP) — A judge has ordered two Marines to disclose whether they will testify against their former squad leader who is the first to be tried under a federal law that allows the prosecution of former combatants for war crimes.

The two Marines — Sgt. Ryan Weemer and Sgt. Jermaine Nelson — risk being jailed Friday if they refuse to obey the order to testify against Jose Luis Nazario Jr. The two have already been jailed twice for refusing to testify before a federal grand jury looking into allegations that Nazario shot and killed unarmed detainees in November 2004 in Fallujah, Iraq.

Weemer and Nelson haven't accepted an offer of immunity and therefore do not have protection against self-incrimination. Both face courts-martial on charges of unpremeditated murder and dereliction of duty for their alleged roles in the killings.

It's the latest development in the first-of-its-kind federal trial in which a civilian jury will decide whether the alleged actions of a former service member in combat violated of the rules of engagement.

"It's going to take a lot of explanation for these folks to understand," said Kevin McDermott, one of Nazario's attorneys.

During opening statements Thursday, a prosecutor told the jury that they would hear testimony of several witnesses to help them understand the Marine Corps, such as the differences between a battalion, a regiment and a squad.

"You will get 'Marine Corps 101,'" said U.S. Assistant Attorney Charles Kovats.

Jurors got their first lesson from Kovats and McDermott during their respective opening statements about the events that led to November 2004 battle of Fallujah, one of the fiercest battles of the Iraq war.

McDermott described the months leading up to the battle, including an incident in which the bodies of private security contractors were burned and hung from a bridge.

Kovats told the jury that Nazario and his Marines were under orders to move into Fallujah and clear it of insurgents on Nov. 9, 2004 — the opening day of the battle for the city.

Kovats described Nazario as a man who killed "unarmed, submissive, docile"

detainees and encouraged men under his charge to do the same.

McDermott countered that Nazario killed insurgents in a city where every resident was looking for a fight.

Nazario, 28, is charged with one count of voluntary manslaughter on suspicion of killing or causing others to kill four unarmed detainees. He also faces one count of assault with a deadly weapon and one count of discharging a firearm during a crime of violence.

He has pleaded not guilty. If convicted of all the charges, he could face more than 10 years in prison.

The case came to light in 2006, when Nazario's former squadmate Weemer 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.

Weemer was ordered this month to stand trial in military court on charges of unpremeditated murder and dereliction of duty in the killing of an unarmed detainee in Fallujah. He has pleaded not guilty.

Several Marines allege Nazario shot two Iraqi men who had been detained while his squad searched a house, according to a Naval Criminal Investigative Service criminal complaint.

The complaint claims four Iraqi men were killed during the action.

Nelson, 26, is slated to be court-martialed in December. Although he has not entered a plea in military court, Nelson's attorney has said his client is innocent.

Nelson and Weemer were jailed in May and June for contempt of court for refusing to testify against Nazario before a federal grand jury believed to be investigating the case. Both were released and returned to Camp Pendleton.