

Trial begins for former Marine accused in Iraq killings

Jose Luis Nazario Jr. is accused in the killing of four prisoners in Fallouja. He is the first to be tried under a law that allows prosecution of a former Marine or soldier for acts during combat.

By Tony Perry, Los Angeles Times Staff Writer
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A jury of nine women and three men, only one a military veteran, heard opening statements today in the federal trial of a Marine accused of killing unarmed detainees in Fallouja.

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In his opening statement in U.S. District Court in Riverside, Assistant U.S. Atty. Charles Kovats described Nazario as a man who killed "unarmed, submissive, docile" detainees and violated the Marines' rules that call for humane treatment of prisoners.

"He failed to do what he was educated to do," Kovats said. Looking at the jury, he said, "I am going to ask you to have honor, courage and commitment by convicting Nazario."

Nazario undercut the U.S. mission in Iraq, Kovats said, by losing "the high moral ground that distinguishes the Marines from the insurgents."

Defense attorney Kevin McDermott said Nazario killed insurgents to aid his fellow Marines.

"There really is only one rule in combat: We keep each other alive," he told the jury.

McDermott said prosecutors did not have names or forensic evidence and they could not find the house where the alleged crimes occurred to confirm the statements of certain Marines when they went back to investigate.

"They're not going to be able to prove anybody was killed in the house," McDermott said. "The defense is here to tell you these acts did not occur as the prosecution says."

Nazario is being tried in federal court because he had left active duty when the Naval Criminal Investigative Service began its investigation. Two other Marine sergeants, still on active duty, are set for courts-martial at Camp Pendleton in the case, in which all the jurors will be Marines.

Nazario is charged with voluntary manslaughter, assault with a deadly weapon and discharging a firearm during a crime of violence in the alleged killing of the four Iraqi prisoners during the battle in Fallouja on Nov. 9, 2004.

Nazario was a probationary police officer in Riverside when federal charges were levied against him. He was immediately fired.

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