

*Real News • Really Local*

**NORTH COUNTY TIMES**

*Real News • Really Local*

**THE CALIFORNIAN**

Last modified Monday, September 8, 2008 6:32 PM PDT

## MILITARY: Charges won't be dropped in Fallujah killings

By MARK WALKER - Staff Writer

NORTH COUNTY ---- Despite the acquittal of their squad leader in the killing of detainees in the Iraqi city of Fallujah four years ago, the Marine Corps has no plans to drop or amend murder charges against two co-defendants, a service spokesman said Monday.

The spokesman, Lt. Col. David Griesmer, said nothing has changed in the wake of the Aug. 28 not guilty verdict in the manslaughter case against former Marine sergeant and squad leader Jose L. Nazario Jr.

Facing upcoming trials at Camp Pendleton on charges of murder and dereliction of duty in the same incident are Sgts. Ryan Weemer and Jermaine Nelson. Each has pleaded not guilty.

"The trials are on," Griesmer said in response to an inquiry about the status of their cases.

Nazario was acquitted by a civilian jury in U.S. District Court in Riverside. He had faced 10 years or more behind bars if convicted. Nazario was tried in civilian court because he was out of the service and no longer subject to the Uniform Code of Military Justice.

Weemer and Nelson, both who were junior in rank to Nazario and were acting under his direction when the slayings allegedly took place on the first day of the battle for Fallujah, face the more serious charge of murder, which carries the possibility of a life prison sentence.

Weemer and Nelson are each accused of killing one of four detainees captured inside a Fallujah home.

Prosecutors alleged that Nazario killed two and directed Weemer and Nelson each to kill one.

Nazario's attorney, Kevin McDermott, joined the Sept. 8 edition of the Marine Corps Times newspaper in calling for charges against Weemer and Nelson to be dropped.

The newspaper's lead editorial in that edition says that in light of the Nazario acquittal, "the Corps should drop the charges against the other accused Marines and lay this case to rest."

"I don't think there should be any prosecution for a murder or a manslaughter charge," McDermott said Monday. "There are still no identities for the supposed victims and no bodies."

Weemer is slated to go on trial the last week of October. His attorney, Paul Hackett, said the Nazario acquittal doesn't necessarily mean much for his client, who will be tried by a jury of military officers and enlisted men.

"You put the gloves on and prepare as best you can," Hackett said.

Weemer is expected to assert self-defense.

Nelson's attorney, Joseph Low, said he has heard nothing from the Marine Corps that indicates any change in its stance regarding the prosecution of his client.

Weemer and Nelson refused to comply with subpoenas ordering that they testify at Nazario's trial.

Despite having letters of immunity from the Marine Corps stating that anything they said could not be used against them at their trials, each cited the Fifth Amendment right against self-incrimination and told U.S. District Judge Stephen Larson they would remain mute.

That prompted Larson to declare both in criminal contempt of court. A hearing set for Sept. 29 hearing will clarify whether that case will go forward and what possible punishment each could face.

Weemer's attorney on the contempt issue, Christopher Johnson, said Monday that he hopes prosecutors and the judge will reconsider going ahead with that prosecution.

Nazario is now trying to get back the job he held with the Riverside Police Department when he was indicted last year. He was a probationary police officer and dropped from the department when the charges surfaced.

In the wake of the not guilty verdict, which jurors said they arrived at in part because they did not believe civilians should be deciding the legitimacy of battlefield acts, McDermott said he has received thousands of e-mails about the issue.

"The best ones are from kids in Iraq who said they kept tabs on it and realized that a conviction could have placed additional burdens on them," he said. "Jose's acquittal has had a huge impact."

Contact staff writer Mark Walker at (760) 740-3529 or [mlwalker@nctimes.com](mailto:mlwalker@nctimes.com).