

Army hearing on deaths of 4 Iraqis ends

By [Matt Millham](#), Stars and Stripes
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Attorneys delivered their closing statements Thursday in an Article 32 investigation that will be used to determine whether two Army junior noncommissioned officers face courts-martial on charges of conspiracy to commit premeditated murder.

Speaking for the prosecution, Capt. Derrick Grace told the hearing's investigating officer, Maj. Rocky Lobash, that nobody in the room would disagree that an "overt act" occurred when three soldiers killed detainees in Iraq in April 2007.

The only thing in dispute, Grace said, was the level of involvement of Staff Sgt. Jess Cunningham and Sgt. Charles Quigley.

Grace acknowledged that neither pulled the trigger to kill the detainees. But, he said, you "don't have to pull the trigger to be a co-conspirator."

In making the prosecution's case against Cunningham, Grace asked Lobash to rely on the testimony of Spc. Humberto Navarro, who was with Cunningham and Quigley when the shootings took place.

Navarro didn't say that he knew for sure Cunningham was aware of a plot to kill detainees. But Navarro did say the sergeant kept telling Navarro and others, "Don't worry about it," as they convoyed out to the site where the company's first sergeant, their platoon sergeant and their senior medic allegedly shot four unarmed, blindfolded and handcuffed Iraqi prisoners.

Cunningham, Navarro testified, also knew where the convoy was headed. Grace said that signified that Cunningham knew about the plot.

James Culp, Cunningham's civilian attorney, told Lobash that Navarro's testimony was unreliable.

"Navarro took the stand and he told you, 'I made a false statement to CID,' " Culp said, referring to the Army's criminal investigation branch.

In arguing that Quigley should face court-martial, Grace told Lobash that all he really needed was Quigley's own sworn statement to CID.

CID special agent Kimani Richardson, who at the time had been an agent for about six months and was still on mandatory probation, asked Quigley if he was OK with the prisoners being killed, Grace said. Quigley replied that one of the alleged shooters — Sgt. 1st Class Joseph Mayo — had "inferred" that the prisoners were going to be killed. "I said I was OK with that," Grace quoted Quigley as telling the CID agent.

Quigley's defense attorney, Capt. Samuel Gregory, pointed out that Richardson didn't believe Quigley was part of the conspiracy, even after he gave that response.

Gregory, in making the case that neither Cunningham nor Quigley was part of the plot, later referred to another part of Quigley's statement. In that statement, Quigley explained a conversation involving the alleged shooters, Quigley, and Cunningham, a few minutes before the detainees were killed. "Myself and Staff Sgt. Cunningham were asked if we were coming along. We declined," Gregory said, quoting the statement.

He also noted that nearly every witness who testified at the Article 32 received immunity for their truthful testimony, and had received nonjudicial punishment for their roles in the killings, "yet they cooperated far less" than Quigley, who wore a wire for nearly three weeks to help investigators.

Lobash said he will consider the six-hour-long taped testimony of Navarro in addition to what was already submitted during the hearing, including witness testimony and an 859-page report, before making his recommendation on whether either soldier should face court-martial.

The recommendation will be made to the case's convening authority, Brig. Gen. David Hogg, commander of Joint Multinational Training Center.