



Hearing officer: Evidence does not support murder case

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By: Mark Walker

CAMP PENDLETON ---- The officer in charge of a military hearing expressed serious doubts Friday about the government's prosecution of Lance Cpl. Justin Sharratt, one of three Marines charged in the November 2005 shooting deaths of Iraqi civilians in the city of Haditha.

Lt. Col. Paul Ware, who will recommend whether to send Sharratt to trial, challenged the prosecution, saying the government's theory of the case does not warrant the three counts of unpremeditated murder filed against Sharratt in December.

"The account you want me to believe does not support unpremeditated murder," Ware told the lead prosecutor, Maj. Daren Erickson. "Your theories don't match the reason you say we should go to trial." Ware's comments came as the government and defense presented him with summations of the case on the fifth and final day of a hearing that will determine if the 22-year-old rifleman from Camp Pendleton's 3rd Battalion, 1st Marine Regiment will be ordered to stand trial.

Sharratt is accused of the civilian equivalent of second-degree murder for shooting three Iraqi brothers inside a home. A fourth man was shot by Staff Sgt. Frank Wuterich, who also faces murder charges. Ware also suggested he is inclined to believe Sharratt, who maintains the first two men he shot were pointing AK-47 rifles at him, and that the killings were carried out in self-defense.

"To me it seems the most important issue is whether the Marines perceived a hostile threat," Ware said. "It comes down to credibility to determine if this case should go to trial." Prosecutors filed charges against Sharratt based on interviews with relatives of the slain men, who contended they did not have any weapons and were herded into the room and shot in rapid succession.

In a statement he read to Ware on Thursday, Sharratt said that story is false and that the killings stemmed from his belief his life was in danger.

"I would not change any of the decisions I made that afternoon," Sharratt said. Prosecutors agreed Friday that the case centers solely on the competing version of events. The discrepancy among accounts is enough to warrant the case going to trial, Erickson told Ware. "The seminal

issue in this case is did the Iraqis have AK-47s?" Erickson said. "The issues in this case are best resolved before a trier of fact."

Ware seemed disinclined to order a trial, however, questioning whether any Iraqis would be willing to come to the U.S. to testify at trial if one is ordered. Even so, Ware said forensic evidence presented by agents from the Naval Criminal Investigative Service who found multiple bullet holes in the walls and curtains of the room does not suggest execution-style killings.

"What the evidence points to is that the version of the Iraqis isn't really supported," Ware said. Defense attorney James Culp centered his summation, which is similar to a closing argument, on the forensic evidence, saying it fully supports Sharratt's account.

The Marine told Ware on Thursday that he emptied his 9mm pistol in the process of shooting the three men. When his clip was emptied, Wuterich followed into the room, shooting a fourth man with his M-16 rifle.

"The most important element is the forensics," Culp said. "The evidence completely corroborates Lance Cpl. Sharratt's story." Culp also suggested that the prosecution of his client is colored by politics surrounding the civilian deaths in Haditha, which generated worldwide condemnation when first reported by Time magazine in March 2006.

Until then, the Marine Corps maintained the civilians died when caught up in a bombing and in crossfire from a small arms attack on the troops. "This is a new kind of war, and this case is a result of the new kind of warfare," Culp said, referring to insurgents who do not wear uniforms and mix within the civilian population. "There's also politics involved here, and the politics of the war is tearing at this nation."

The 24 civilians who died that day included several women and children, and 19 of the slain were killed inside their homes. The killings took place as the Marines searched a series of homes for insurgents after a roadside bomb destroyed a Humvee, killing a lance corporal and injuring two other Marines.

Sharratt is accused of killing men in the last house the Marines assaulted that day. Fifteen others died inside three homes stormed by Wuterich and Marines other than Sharratt. Five unarmed men in a car that drove up moments after the bombing were the first to die.

Culp suggested Sharratt was unfairly lumped into the cases involving the other civilian deaths. "He charged into that room at great risk to his own safety and killed those men before they killed him. He deserves a medal," the attorney said. Ware said he will issue his recommendation about whether to send Sharratt to trial to Lt. Gen. James Mattis by July 1.

Mattis is in charge of the case as head of Marine forces in the Middle East. Under the Uniform Code of Military Justice, the general can accept or reject the hearing officer's recommendation. Wuterich, who is charged with 13 counts of murder and who attended most of Sharratt's hearing, is scheduled to go before a hearing officer in August.

The other accused shooter, Lance Cpl. Stephen Tatum, is scheduled to go before a hearing officer starting July 9. A fourth Marine prosecutors charged with murder, Sgt. Sanick Dela Cruz, had charges against him dropped in exchange for his testimony in the case against Wuterich.

Four officers from the battalion were charged with dereliction of duty for failing to order an investigation into the civilian deaths. Hearings for two of those officers have taken place with no decision announced yet whether they will be ordered to trial.