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G.I. Tells of Ordering Unarmed Iraqi's Death

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CAMP LIBERTY, Iraq — A top Army sniper testified Friday in a military court that he had ordered a subordinate to kill an unarmed Iraqi man who wandered into their hiding position near Iskandariya, then planted an AK-47 rifle near the body to support his false report about the shooting.

Under a grant of immunity, the sniper, Sgt. Michael A. Hensley, an expert marksman and sniper trainer, testified in the court-martial of Sgt. Evan Vela. Sergeant Vela is accused of murder, impeding a military investigation and planting evidence to cover up an unjust shooting. An earlier charge of premeditated murder was dropped.

Sergeant Vela is the third soldier to be charged in the death of the Iraqi, Genei Nesir Khudair al-Janabi, last May. Sergeant Hensley and another soldier, Specialist Jorge G. Sandoval Jr., were acquitted of murder charges last year, but were convicted of planting evidence. As part of his sentence, Sergeant Hensley was demoted from staff sergeant.

All three soldiers were elite snipers with the 501st Infantry Regiment, Fourth Brigade (Airborne), 25th Infantry Division, based at Fort Richardson, Alaska.

The military trials have highlighted a secret baiting program, begun in early 2007, in which snipers placed lures like fake explosives or other weaponry to draw insurgents into the open, where they could be killed.

But Sergeant Hensley's testimony at the base here suggested that by last spring, in addition to baiting and killing, soldiers had added a new tactic: carrying weapons to plant on bodies to deter prosecution.

Sergeant Vela's lawyer, James Culp, of Austin, Tex., did not dispute that his client had shot and killed Mr. Janabi, but emphasized the battlefield stresses the soldiers endured. Mr. Culp argued that Sergeant Vela had had only a few hours of sleep over three days of constant operations.

Mr. Culp also said his client's superiors pressed his squad to increase their kill rate, while holding out the threat of prosecution for unjust shootings.

"It's not a case of beyond reasonable doubt," Mr. Culp said in an interview after Friday's proceeding. "It's about giving warriors the benefit of the doubt." Sergeant Vela may testify

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Saturday. Sergeant Hensley said that on May 11, he led his squad to a hiding spot overlooking a village they suspected was controlled by Sunni insurgents. But after several days with little rest, soldiers were drifting into sleep.

“I woke up to a local national squatting in front me with his hands up,” Sergeant Hensley testified. The man was Mr. Janabi, who lived nearby. Sergeant Hensley said he tackled Mr. Janabi and pinned him to the ground.

Mr. Janabi was followed into the hide-out by his son, Mustafa, 17. Sergeant Hensley and his team held the two captive until he spotted several Iraqi men in the distance and Mr. Janabi became agitated. Sergeant Hensley feared that Mr. Janabi’s thrashing would alert the other Iraqis.

Sergeant Hensley said he released the boy and ordered everyone except Sergeant Vela to leave because he “didn’t want them to bear witness” to what they were about to do.

“I pretty much knew at this point that something was going to happen to the father,” Sergeant Hensley testified. “He was making too much noise. I thought that the only way to protect my guys was to take this guy’s life.”

Sergeant Hensley said he ordered Sergeant Vela to load his 9-millimeter pistol, and then made four radio calls to his command post to support a cover story. The first call reported that an Iraqi man was approaching, the second that the man was armed, the third that the sergeant was preparing to shoot.

The fourth call confirmed that he had killed his target. “At that point his head was at Sergeant Vela’s feet, and I asked him if he was ready and then I moved out of the way,” Sergeant Hensley said. He ordered Sergeant Vela to fire, and Sergeant Vela complied immediately, Sergeant Hensley said.

“A round was fired into his head,” he said.

Mr. Janabi did not die immediately, Sergeant Hensley said. As his brain hemorrhaged, he choked on his blood. Sergeant Hensley simulated the gurgling sound and testified that he ordered Sergeant Vela to fire again.

Sergeant Hensley said he pulled out an AK-47 that he had ordered one of his men to carry and placed it near the body.

“It wasn’t uncommon for us to have stuff like that out there,” he said. They often carried incriminating items to plant on Iraqis as “insurance,” he said.

Dr. Michael Baden, a prominent New York forensic pathologist, showed several poster-size photographs of Mr. Janabi’s body and said he had been killed by a single shot to the head. The photos showed two coin-size wounds behind each ear, which Dr. Baden described as entrance and exit wounds.

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The victim's son, Mustafa Ghani Nesir al-Janabi, also testified. He said he had found his father being held captive by American soldiers hiding in a stand of trees. When the soldiers saw him, they sat him next to his father.

"At the beginning I talked to him and he answered back," he said. Perhaps drawing a parallel with their perilous situation, he said he told his father about how one of their relatives had recently been killed. "I was talking to him about how my cousin Saif was killed in Iskandariya," Mr. Janabi said. "I told him that the Mahdi Army killed him."

The Americans shushed them repeatedly and then told the son to go away, he said.

When a military prosecutor exhibited a picture of the dead man, the young man said, "That's my father." Another was shown and he repeated, "That's my father."

"Did your father look like this when they released you?" the prosecutor asked.

"No, he didn't," the son answered