

APNewsBreak: No death penalty in '09 Iraq deaths

By John Milburn, Associated Press
September 19, 2011

TOPEKA, Kan. (AP) — An Army sergeant accused of killing five service members at an Iraq military base's mental health clinic should be tried for murder but should not face the possibility of execution because he suffers from serious mental illness, a military judge recommended.

Sgt. John Russell, who is accused of opening fire at the combat stress center at Camp Liberty near Baghdad in May 2009, should be held accountable for his actions and face a court martial on the five counts of premeditated murder he faces, Col. James Pohl wrote in his recommendations issued Friday.

"However, in my opinion, the accused undisputed mental disease or defect make the death penalty inappropriate in this case," wrote Pohl, who presided over a four-day preliminary hearing in August at Fort Leavenworth in Kansas, where Russell is being jailed.

Four of Russell's fellow soldiers and a Navy officer were killed in what was the deadliest act of soldier-on-soldier violence in the war in Iraq.

The Army general who will decide how to proceed with case could choose to ignore Pohl's recommendations and seek the death penalty. A time and place for a court martial had not been set as of Monday, and Lt. Col. Amy Hannah, an Army public affairs official, said the Army did not have immediate comment on Pohl's recommendations.

Pohl was the investigating officer in the 2009 attack on Fort Hood, and he recommended that case be tried as a capital one.

Russell's case has raised questions about the mental health problems for soldiers caused by repeated tours of duty in Iraq and Afghanistan and whether the Army's mental health care is adequate. The case led to an investigation and a critical report.



FILE - This undated U.S. Army file photo provided by the Russell family shows U.S. Army Sgt. John M. Russell. Russell, who opened fire at the combat stress center at Camp Liberty near Baghdad in May 2009, should be held accountable for his actions and face a court martial on the five counts of premeditated murder he faces, Col. James Pohl wrote in his recommendations issued Friday, Sept. 16, 2011. (AP Photo/Russell family) NO SALES

Russell, 46, was nearing the end of his third tour when his behavior changed, members of his unit later testified. They said he became more distant in the days before the May 11, 2009, attack, and that he seemed paranoid that his unit was trying to end his career. They also said his job performance and his relationships with those around him were deteriorating.

On May 8, Russell sought help at a combat stress clinic at Camp Stryker, where his unit was located. James Culp, a civilian attorney assisting Army public defenders in the case, argued that the mental health staff at Camp Stryker lacked compassion to recognize that Russell needed urgent care. Instead, Russell was referred to the Camp Liberty clinic, where on May 10 he received counseling and prescription medication to treat his symptoms.

Witnesses said the following day, they saw Russell crying and talking about hurting himself. He went back to the Camp Liberty clinic, where a doctor told him he needed to get help or he would hurt himself. Russell tried to surrender to military police to lock him up so he wouldn't hurt himself or others, witnesses said.

Military prosecutors say Russell left the clinic and later returned with a rifle he took from his unit headquarters and began firing. He was arrested afterward.

Two evaluations were presented at the August hearing saying Russell suffered from severe depression "with psychotic features and chronic post-traumatic stress disorder." A March 2011 evaluation said the major depression with psychotic features was in partial remission.

Culp said Monday that the August testimony showed his client "was cracking apart." He also it was significant that Pohl recognized that Russell was suffering from mental illness and under severe stress at the time of the shootings.

"In the end, though, regardless of whether the convening authority does or does not follow the recommendations, the underlying premise in Judge Pohl's recommendation will remain true until the end of these proceedings," Culp said.

Government attorneys sought to show that whatever stress he faced, Russell remained coherent enough just before the shootings in May 2009 to reflect on his actions.

Killed in the shooting were Navy Cmdr. Charles Springle, 52, of Wilmington, N.C., and four Army service members: Pfc. Michael Edward Yates Jr., 19, of Federalsburg, Md.; Dr. Matthew Houseal, of Amarillo, Texas; Sgt. Christian E. Bueno-Galdos, 25, of Paterson, N.J.; and Spc. Jacob D. Barton, 20, of Lenox, Mo.