



Prosecutors Shun Excuses for Accused GIs

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By: Charles J. Hanley

(AP) A U.S. Army private on Tuesday described the ever-present fear of death gripping his unit, whose members stand accused of raping and murdering a 14-year-old girl and killing her family in Iraq's infamous "Triangle of Death."

"You're just walking a death walk," Pfc. Justin Cross told a hearing to determine whether five fellow soldiers must stand trial in the March 12 attack near Mahmoudiya.

But prosecutors argued that the threats of war, arduous missions and frequent loss of life were no excuse for rape and murder.

"Murder not war. Rape not war. That's what were here talking about today," prosecutor Capt. Alex Pickands said in his closing argument before the three-day hearing concluded. "Cold food didn't kill that family. Personnel assignments didn't rape and murder that 14-year-old little girl."

Pickands said the suspects "gathered together over cards and booze and came up with a plan to rape and murder that little girl."

The hearing officer must forward a recommendation to the brigade commander, Col. Todd Ebel, who must decide whether to order a trial.

Spc. James P. Barker, Sgt. Paul E. Cortez, Pfc. Jesse V. Spielman and Pfc. Bryan L. Howard are accused of raping and murdering the girl and killing her parents and 5-year-old sister. Another soldier, Sgt. Anthony W. Yribe, is accused of failing to report the attack but is not alleged to have participated.

Testimony during the Article 32 hearing, the military equivalent of a grand jury, has painted a picture of a demoralized unit, drained emotionally after the deaths of comrades and exhausted after the frequent attacks in the mostly Sunni Arab area, a stronghold of al-Qaida in Iraq and other religious extremists.

"It drives you nuts. You feel like every step you might get blown up," Cross told the hearing. "You just hit a point where you're like, 'If I die today, I die.'"

Cross said the unit was "full of despair," and he feared dying at his post before he could go home.

<http://www.cbsnews.com/stories/2006/08/08/ap/world/printableD8JCIAPG0.shtml> 8/9/2006

"I couldn't sleep mainly for fear we would be attacked," Cross said. He said the deaths of two soldiers at a checkpoint "pretty much crushed the platoon."

To cope with the stress, he said, soldiers turned to whiskey (a violation of U.S. regulations in Iraq) and painkillers to ease their fears.

Much of the testimony has centered on former Pfc. Steven D. Green, who was discharged due to a "personality disorder."

Green was arrested in June shortly after the command learned U.S. soldiers may have been involved in the attack. He has pleaded not guilty to rape and murder charges and is being held in the United States.

On Tuesday, Sgt. 1st Class Jeffrey Fenlason, the accused soldiers' platoon sergeant, said he was sent to the unit to restore discipline after several soldiers, including Green, began suffering emotionally after losing comrades.

"I recall a conversation with him (Green) regarding his lack of concern or caring for Iraqi life versus American soldiers' life," Fenlason said.

Another witness, Sgt. Daniel Carrick, told the hearing that harsh conditions affected everyone, but especially Green.

"Green had hatred for a lot of people in general," Carrick said. The final witness, company commander Capt. John Goodwin, testified by secure telephone after his base at Youssifiyah had come under rocket and mortar attack Tuesday.

Goodwin told the hearing that morale had slumped as casualties rose. Asked whether soldiers in his unit hated Iraqis, Goodwin replied: "There's more of a frustration than a hatred."

"I can understand why because of events that happened over the last three months," he added.

But it was Cross' testimony that was the most riveting. His comments were in stark contrast with the image of a professional military force, highly trained and committed to the mission regardless of the dangers.

Premeditated murder carries the death penalty under U.S. military law and the testimony could be an attempt to persuade the command to seek a lesser penalty if a court martial is ordered.

In Washington, lawyer Eugene Fidell, president of the National Institute of Military Justice, said combat stress as a defense was a long shot "unless it rose to the level of an insanity defense or negated some element of the crime."

"It might influence whether it's sent to trial as a capital case," he told The Associated Press. "That may be what the defense considers the main event here... They may be hoping to have the

nature of the charges modified, have the case go to trial as something other than premeditated murder."

The Mahmoudiya area, about 20 miles south of Baghdad, became known as the "Triangle of Death" because of the large number of Iraqi Shiites who were waylaid and murdered along the roads between Baghdad and Shiite areas of the south.

On Monday, Army criminal investigator Benjamin Bierce testified about a sworn statement by Barker in which he said the soldiers drank whiskey and played cards while plotting the assault. Bierce said Barker confessed that he, Cortez and Green took turns raping Abeer Qassim al-Janabi and that Green shot the teen as well as her relatives.

On Tuesday, Pfc. Justin Watt said he didn't believe Green "could have done this all by himself." His comments were made during questioning by Yribe's lawyers, who argued in their final summation that there was insufficient evidence to try their client.

Yribe is accused of failing to disclose that he had found a shotgun shell at the victims' house. Shotguns are rarely used by Iraqis, prosecutors alleged.

Lawyers for the other four on Tuesday also submitted a written request for a new hearing, accusing Yribe's counsel of deliberately asking incriminating questions. The decision on the motion rests with the soldiers' brigade commander, who is expected to rule within a week.

Sgt. Anthony Hernandez, a soldier in the same unit, testified Tuesday on behalf of Yribe, recalling that he was recommended for a Silver Star for bravery during an attack on a convoy.

"He always put his life on the line," Hernandez said.

The rape and murders have bolstered allegations of misconduct by soldiers, including illegal killings, beatings and inhuman treatment. The allegations have increased the mistrust and resentment among Iraqis of the American military and increased calls for their withdrawal.

The case has already increased demands for changes in an agreement that exempts U.S. soldiers from prosecution in Iraqi courts. And Prime Minister Nouri al-Maliki has demanded an independent investigation into the Mahmoudiya allegations.