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In Baghdad, a Courtroom for U.S. Troops

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In a musty courtroom overlooking a weed-choked lake created on orders from Saddam Hussein, Specialist Nathan B. Lynn and Sgt. Milton Ortiz Jr. sat quietly in a military hearing known as an Article 32, accused of crimes against two Iraqi citizens.

The courtroom, beside a mosque at Camp Victory, a sprawling military base near the airport, lacked the cool, antiseptic qualities of many criminal courtrooms back in the United States. A film of desert dust covered the floor and furnishings on Wednesday. The sole court exhibit, a map showing a cluster of homes in a dangerous area of Anbar Province, was nailed to a thick slab of plywood in the corner. Water from the dying wall-mounted air-conditioner spat down on the visitors' gallery.

And the special hearing in this courtroom, which held Mr. Hussein when he was arraigned after his capture two years ago, has no equivalent outside the armed forces.

As obscure to the general public as they are crucial to the military's criminal justice system, Article 32 hearings are neither grand jury proceedings nor full jury trials but contain elements of both -- examination of witnesses, admission of evidence and often emotional summations from military lawyers -- to determine whether there are "reasonable grounds" to recommend a soldier be court-martialed.

The decision is made by the investigating officer presiding over all such hearings. The officer may recommend to a convening authority that the accused either undergo a court-martial or receive nonjudicial punishment, like a demotion or loss of pay.

This week's Article 32 hearing for Specialist Lynn and Sergeant Ortiz, members of the same Pennsylvania National Guard combat unit, ended Wednesday, and the investigator, Lt. Col. John McClory, made his recommendations on Thursday.

The hearing was the first of several Article 32 hearings scheduled for the next few months to determine the probable guilt of at least 16 American service members charged in the past two months with killing Iraqi civilians. That number itself is extraordinary -- equal to the total number who were charged with such killings in the first three years of the war here.

The next hearing, for marines under investigation in the killing of 24 Iraqis in Haditha last November, is scheduled to begin next month, said one military official, who spoke on condition of anonymity because he was not authorized to discuss the hearing schedule.

At least four other investigations may also result in Article 32 hearings in coming months. They include the case of four soldiers from the 502nd Infantry who are accused of committing rape, murder and arson in Mahmudiya last March.

Specialist Lynn and Sergeant Ortiz, of the National Guard's B Company, First Battalion, 109th Infantry, were charged in connection with two episodes, on Feb. 15 and March 8, near Ramadi, a volatile Sunni Arab city west of Baghdad where insurgents have launched several deadly attacks on American and Iraqi forces.

In the Feb. 15 episode, Specialist Lynn, 20, was charged with manslaughter in the fatal shooting an Iraqi man during a nighttime patrol to root out an insurgent cell. Government lawyers argued that the man was unarmed.

Sergeant Ortiz, 36, was charged with conspiracy to put an AK-47 taken from a nearby home alongside the body of the victim, Gani Ahmed Zaben, to give the impression that he had been armed.

Specialist Lynn, from South Williamsport, Pa., was also charged with conspiracy because, government lawyers said, he acquiesced to Sergeant Ortiz's and another sergeant's plan to plant the weapon.

In the March 8 case, government lawyers said that Sergeant Ortiz, who grew up in Brentwood, N.Y., took a 9-millimeter pistol found in a home that B Company had searched and put its barrel to the head of its owner, a local Iraqi man under the guard of other soldiers. They said that Sergeant Ortiz became agitated at the man, named Muhammad, for having denied having any weapons when the soldiers began their search. According to the government, Sergeant Ortiz verbally threatened the man, shouting, "I'm going to put you in Abu Ghraib for the rest of your life."

Specialist Lynn denied both the manslaughter and conspiracy charges. He said that he had spotted Mr. Zaben emerging from bushes carrying an automatic rifle in the "low ready" position and that he had fired at him. He said he had nothing to do with a scheme to plant a weapon near Mr. Zaben's body.

Sergeant Ortiz, in an interview Wednesday in his military lawyer's office, declined to comment on the charges.

On Thursday, both men received word that Colonel McClory had recommended that both charges against Specialist Lynn be dropped, according to a military officer who spoke on condition of anonymity because he was barred from discussing the outcome with reporters.

As for Sergeant Ortiz, Colonel McClory recommended that he receive a nonjudicial punishment instead of proceeding to a court-martial, the officer said.

Specialist Lynn's military lawyer, Capt. James D. Culp, said Article 32 hearings rarely resulted in recommendations for dismissal of serious charges like manslaughter, although he called it appropriate in this case. "It showed that the military justice system does work," he said.

Captain Culp is also a lawyer for Specialist James P. Barker, one of the five soldiers charged in the Mahmudiya rape and murder case. Their Article 32 hearing, scheduled to begin on Aug. 6, will be a far tougher challenge.

"My expectation," Captain Culp said, "is that there would be no rush to judgment before all of the facts are heard."

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