

Marine is ordered to testify against leader in Iraq killings

by Rick Rogers

CAMP PENDLETON, Calif. - In a surprise turn during the Haditha war-crimes case at Camp Pendleton, a Marine charged for his part in the 2005 killings of 24 Iraqi civilians has been ordered to testify against his squad leader under a grant of immunity.

Lawyers for Lance Cpl. Stephen Tatum said they learned Monday that the Marine Corps was forcing immunity on their client so he would take the stand against Staff Sgt. Frank Wuterich.

Any testimony that Tatum gives as part of the immunity grant cannot be used as courtroom evidence against him by the government.

Typically, witnesses who receive immunity have not been charged with a crime or are trying to broker a plea agreement. Tatum has been charged with involuntary manslaughter, aggravated assault and reckless endangerment.

"We were sent a copy of the immunity order that we did not negotiate, and we have no (plea) deal," Jack Zimmermann, Tatum's lead defense attorney, said Wednesday. "They are still going to prosecute him, and we still plan to plead not guilty."

Wuterich and Tatum are part of the Camp Pendleton-based 3rd Battalion, 1st Marine Regiment. A roadside bomb struck their unit's convoy Nov. 19, 2005, in Haditha, killing one Marine and wounding two others.

For several hours afterward, Wuterich and some of his Marines killed 19 men, women and children in a few homes with small arms and grenades. They also fatally shot five men who got out of a taxi near the bomb blast.

Wuterich is scheduled for trial next month on charges of voluntary manslaughter, aggravated assault, reckless endangerment, dereliction of duty and obstruction of justice.

Wuterich and Tatum have called the Iraqi civilians' deaths a tragedy caused by legitimate combat between Marines and insurgents. Prosecutors contend that the actions were criminal.

The decisions to court-martial Wuterich and Tatum were made by Lt. Gen. Samuel Helland, commander of the 1st Marine Expeditionary Force at Camp Pendleton. Helland also issued the grant of immunity for Tatum.

The immunity decision was revealed Wednesday during court hearings on the base for Wuterich and Tatum.

During one hearing, Wuterich's lawyers argued before a military judge, Lt. Col. Jeffrey Meeks, that a statement Wuterich gave to an Army investigator should be thrown out. They said the investigator obtained the statement by falsely suggesting that Wuterich was not suspected of any crimes.

Meeks did not rule on the motion, and Wuterich's hearing will continue today (Feb. 14).

During the hearing for Tatum, Zimmermann sought to have another military judge, Lt. Col. Eugene Robinson, bar certain statements from being used during trial. Tatum gave those statements to agents from the Naval Criminal Investigative Service after asking for a lawyer but never getting one.

Matthew Marshall, an NCIS agent, testified that Tatum demanded a lawyer during a May 9, 2006, interview at Camp Pendleton. Marshall said a lawyer was not brought in because Tatum later changed his mind and agreed to speak to the agents without legal representation.

Zimmermann argued that a lawyer should have been called in immediately. He tried to hammer away at the investigative service's practice of not videotaping interviews with suspects.

More motions in the Tatum case will be presented today, including whether a polygraph test is admissible in court.