

Families Wonder if Slain Soldiers Would Have Lived if Threats Had Been Reported

As the jury deliberates whether Staff Sgt. Alberto Martinez is guilty of murdering two superior officers in Iraq, their families wonder if their loved ones would have lived if alert soldiers had voiced their misgivings about the accused.

Witness after witness testified that Martinez had publicly threatened to harm and kill Capt. Phillip Esposito, company commander of the 42nd Infantry Division's headquarters support company in Tikrit, Iraq. Esposito, 30, a resident of Suffern, was unhappy with Martinez's job performance as the supply sergeant of his unit and was looking to replace him.

First Lt. Louis Allen, 34, of Milford, Pa., had recently arrived in Iraq to be the unit's second in command and straighten up the supply room, where nearly \$1 million worth of equipment was missing.

Prosecutors say that, fearful of losing his job, Martinez set off a claymore mine and grenades in Esposito's window June 7, 2005. The explosions killed Esposito and Allen, who was also in the room.

Witnesses said Martinez was so frustrated by the situation that they heard him say, "I'm going to frag that mother" and "I'm going to burn him." Fragging is military slang for the intentional killing of a superior officer.

As the 14-member jury deliberated a verdict yesterday, Allen's father said his family was haunted by what could have been if someone had reported the threats against Esposito.

"Had they told someone, they would have taken action," Robert Allen said by phone as he and other family members paced outside the courtroom in Fort Bragg, where the trial is being held. "Our sons would have been alive today." While making threats against a fellow soldier is punishable under the Uniform Code of Military Justice, there is no law that requires a soldier to report a threat.

Greg Rinckey, a former Judge Advocate General attorney who is now in private practice in Albany, said that making threats against another soldier was not uncommon, especially in a combat zone where stress is high and soldiers vent to let off steam. In some cases, soldiers don't report a threat because it is seen as ratting on a colleague. But not doing so can cause more damage.

"It's a very slippery slope. ... It's kind of a double-edged sword," Rinckey said. "In hindsight, if someone would have reported it, these men could be alive."

Some soldiers believe reporting threats is required under a section of the military code that deals with reporting wrongdoing in the military.

"To me, it's dereliction of duty," said Sgt. Glenn Read, who served in Iraq in 2006 and 2007 and now works as a paralegal in the 42nd Infantry Division in Troy, N.Y.

Venting is common, Read acknowledged, but "you would know the difference. I would know the difference. You kind of sense it."

Yesterday evening, the jury retired without reaching a verdict. It will continue deliberations today.