

Abu Ghraib trial judge won't step down

Defense claims his questions scuttled plea deal for reservist

BY T.A. BADGER

The Associated Press

FORT HOOD, Texas – An Army judge refused yesterday to step aside for Pfc. Lynnndie England's trial on charges of abusing prisoners in Iraq, saying he was not to blame for her botched guilty plea in May.

Col. James Pohl rejected an argument by the defense that he asked inappropriate questions of a witness, the reputed abuse ringleader, Pvt. Charles Graner.

Graner's testimony for the defense at England's sentencing hearing contradicted her version of what happened, forcing a mistrial that ended her plea deal and put the case back on track for trial.

"But for your line of questioning, we would not be at the point of mistrial," argued Capt. Jonathan Crisp, lead defense lawyer.

Pohl disagreed, saying the defense called Graner to the stand knowing his testimony would run counter to England's plea.

"Don't lay it on me, Captain Crisp," the judge snapped. "It was not the questions that caused the problems. It was the answers."

England, 22, a reservist from West Virginia who appeared in some of the most notorious photographs from the 2003 scandal, is the only soldier charged with abusing prisoners at Abu Ghraib whose case has not yet been resolved. She faces two counts of conspiracy, four counts of maltreating detainees and one count of committing an indecent act. The charges carry a maximum of 11 years in prison.

The hearing was scheduled to resume today with a motion by Crisp to remove some of the photos from evidence.

England's new trial is set to begin early



LM OTERO / AP

U.S. Army Pfc. Lynnndie England arrives for a pretrial hearing at Fort Hood, Texas, yesterday.

next month.

The deal-breaking testimony from Graner came during questioning about a count of alleged maltreatment in which England posed for photos while holding a naked Iraqi prisoner on a leash. England had told the court that the event was staged to degrade the prisoner and amuse the Abu Ghraib guards, but Graner testified that the actions were to demonstrate and document a legitimate technique to coax a prisoner out of his cell.

The conflicting versions cast doubt on whether England knew she was committing an illegal act – a necessary state of mind for her to plead guilty.

Crisp contended that Pohl triggered the mistrial when he asked why the photo was taken. Once that answer was on the record, Crisp

said, the plea was doomed.

But Pohl said he was obligated under military law to ask questions to clear up possible discrepancies.

Pohl also rejected other arguments by Crisp as to why another judge should preside over England's trial, including one that Pohl would have to be a witness at the trial to explain why he ordered the mistrial. In denying that claim, Pohl said he did nothing that would make him a witness.

Only Graner and Spc. Sabrina Harman have opted for trial on Abu Ghraib charges. Graner is serving a 10-year sentence for his role in the abuse. Harman was convicted of abuse in May and sentenced to about four months in prison. Six other soldiers have made plea deals that included sentences of up to eight years.