

THE NEW YORK TIMES, SATURDAY, SEPTEMBER 27, 1969

Beret Calls Army's Offer of Immunity 'Foul Play'

By JAMES P. STERBA
Special to The New York Times

LONGBINH, South Vietnam, Sept. 26—"I got a medal down in Saigon last year when me and another guy pulled a lot of people out of a fire. I sent it to my wife and she made a big thing out of it. She said I was a hero and all this junk. It's kind of interesting to note that the Army gives me a medal and then throws me in jail—gives me a medal for saving about 150 Vietnamese people, and then."

Chief Warrant Officer Edward M. Boyle broke off his sentence, drew his face into a quick grimace and squeezed his intertwined fingers.

Last Thursday, the 26-year-old Special Forces intelligence expert was living in confinement with six Green Beret officers awaiting the Army's decision on whether they would be court-martialed on charges of murder and conspiracy.

Arm Patch Torn off

Today, Mr. Boyle sat on his bed in a small room in the middle of a battalion of military policemen about half a mile away from his still-confined colleagues. He wore an olive-drab baseball cap instead of his green beret. He has torn off his Special Forces arm patch—in order, he said, to be discreet.

His year's tour in Vietnam ended on July 27, he said, but the Army will not permit him to leave even though charges of murder and conspiracy against him were not referred to a court-martial for trial.

He said he wants to see his 24-year-old wife, Dorothy, in Baltimore "to talk over the biggest decision I will ever have to make in my life." He added that his relationship with the Army was finished, even if he should be proven innocent.

"They're going to try to tell us that it's not going to affect our careers," he said with a smirk.

Told of Phone Call

Mr. Boyle is now regarded as the key figure in the controversial case involving the alleged murder of a Vietnamese believed to have been a double agent. The case resulted in the arrest of Mr. Boyle along with six other Green Beret officers and an enlisted man. The group included Col. Robert B. Rheault, the former commanding officer of United States Special Forces in Vietnam.

Attorneys for the defendants said today that they thought the Army's case rested on whether Mr. Boyle could be "broken down" in order to testify for the prosecution.

Shortly before the Army announced last Thursday its decision to prosecute the six Special Forces officers in the case, an official walked into Mr. Boyle's room and told that he had a telephone call at army headquarters down the road. The official added, Mr.

Boyle said, that he should bring along his shaving gear.

"That's kind of ridiculous because I don't usually shave when I'm talking on the phone," Mr. Boyle said. "I mean it was so obvious."

Instead of being taken to headquarters, the warrant officer was driven in the other direction to the 720th Military Police Battalion headquarters and was given a bed in a room with a military police officer.

The Army official told Mr. Boyle that the charges against him were "being held in abeyance" pending the outcome of the trials of the other Green Berets. In the meantime, Mr. Boyle was assigned to temporary duty in the motor-pool maintenance office of the M.P. detachment.

The official also handed the warrant officer a statement signed by Maj. Gen. George L. Mabry, the convening officer in the case, granting him immunity from prosecution as soon as he testified against the other Green Berets.

'Foul Play' Charged

Mr. Boyle said that the granting of immunity was "foul play" by the Army. He said that he had never asked for immunity in the case and that he was still loyal to his fellow Green Berets.

"It wasn't an offer, I just got it," he said.

Mr. Boyle who enlisted in the Army after his graduation from Cardinal Hayes High School in New York, spoke to a reporter today in the presence of his civilian attorney, Henry B. Rothblatt.

He said that since his arrival at the motor pool, he had been given "absolutely no work to do." Meanwhile, however, he eats, drinks and associates constantly with military-police officers, including some members of the Criminal Investigation Detachment — the military group in charge of investigating the Green Beret case.

He is not permitted to visit or talk with the other six Special Forces officers still under guard.

Mr. Rothblatt accused the Army of attempting to apply pressure to get Mr. Boyle to testify against his colleagues. He also said that the Army had attempted to persuade Mr. Boyle to dismiss Mr. Rothblatt as his attorney.

"It's obvious that they're trying to break him down," Mr. Rothblatt said. "He's their only hope. They certainly want him around to put the pressure on him."

Visited by Investigators

Mr. Rothblatt said that Mr. Boyle had been visited and offered drinks by several military policemen and investigators since his reassignment.

Two days ago, Mr. Rothblatt said, an Army official summoned Mr. Boyle and his military-appointed counsel, Capt. Myron D. Stutzman, to Army

headquarters to discuss the offer of immunity. Captain Stutzman phoned Mr. Rothblatt, who said that he phoned the official back and "told him in so many words to go to hell."

Yesterday, Mr. Rothblatt sent a message to President Nixon asking that Mr. Boyle be allowed to return to the United States until such time as he is summoned as a witness or is tried.

Today, in what was termed an "interim" reply, the Army said that Mr. Boyle had been "flagged," or frozen into his present unit, as a result of charges pending against him.

The Army reply added:

"In accordance with paragraph two, Army Regulation 600-31, no favorable personnel action can be taken with respect to a flagged individual except as authorized by the regulation. A reassignment is a favorable personnel action."

Four days ago, in a letter to his attorney, Mr. Boyle said: "I am sick and tired of Vietnam. My tour ended two months ago. I want to go home. With all the legal motion to be made, it will be months before there is a trial."

He added that he thought the Army might grant his request, because "the Army is badly in need of good publicity and would appear as the great benevolent and merciful big daddy."

Sister Tells of Letter

Mrs. Daniel O'Hara of Waretown, Conn., the sister of Chief Warrant Officer Boyle, said yesterday that her brother was refusing to testify against his superior officers in the Green Beret case.

"In a letter, he said he will not testify against his comrades in arms," Mrs. O'Hara said. "He feels he'll be held in contempt of court and possibly sentenced to five years in pris-

on, but he's willing to take his chances."

Mrs. O'Hara, accompanied by Mr. Boyle's mother, Mrs. Beatrice Boyle of the Bronx, appeared at a news conference held by Representative Jonathan Bingham, Democrat of the Bronx, at the Roosevelt Hotel.

"My brother says that he and the other men feel that if the case comes to trial the main reason will be to placate the South Vietnamese Government," Mrs. O'Hara said. She quoted her brother as having said that he and the others had refused to be "political expendables."

Representative Bingham called on Secretary of Defense Melvin R. Laird to move the trial to the United States and to conduct it under civilian authority. He also said that the trial should be completely open or the charges should be dropped if the trial could not be open for security reasons.

Mr. Bingham, who counts Mrs. Boyle among his constituents said that a trial in Saigon would be "intolerable" since Gen. Creighton W. Abrams, the United States commander in Vietnam, would be acting as "an interested party" through his subordinates "as prosecutor, judge and jury."