

2d Trial Is Ordered In Songmy Incident

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WASHINGTON, Dec. 31—

The Army announced today that it would try S. Sgt. David Mitchell on charges of assault with intent to murder 30 Vietnamese civilians in connection with the alleged massacre at Songmy last year.

The announcement of the general court-martial was made this morning at the Pentagon and at Fort Hood, Tex., where the 29-year-old sergeant is stationed.

If he is convicted, Sergeant Mitchell faces a maximum penalty of confinement at hard labor for 20 years, dishonorable discharge, forfeiture of pay and reduction to private.

The Army announced that the trial would be open to the

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Second Trial Ordered by Army In Alleged Massacre at Songmy

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public. It noted, however, that the military judge would be authorized "to close portions of the trial to spectators to prevent the unauthorized disclosure of classified security information.

Sergeant Mitchell has declined to answer most questions by newsmen concerning what happened at Songmy on March 16, 1968, the day of the alleged massacre. He has said, however, that he saw nothing out of the ordinary and has denied the charges against him.

The sergeant was at the Pentagon last Saturday to testify before a special Army panel investigating whether an initial, on-the-scene inquiry into the alleged massacre was a whitewash. When he emerged, he refused to answer the questions of reporters, but said: "I'm not guilty."

The Army previously announced that a court-martial would be held to try Sergeant Mitchell's former platoon leader, First Lieut. William L. Calley Jr. of Miami. The 26-year-old lieutenant has been charged with the premeditated murder of 109 civilians.

Lieutenant Calley was in charge of the First Platoon, C Company, First Battalion, 20th Infantry, 11th Infantry Brigade, at the time of the alleged massacre. Sergeant Mitchell was a squad leader in the platoon.

The Army has said that it is investigating two dozen other soldiers and former soldiers in connection with the alleged massacre.

The charge against Sergeant Mitchell reads:

"In that S. Sgt. David Mitch-

ell . . . did at Mylai 4, Quangn-gai Province, Republic of Vietnam, on or about 16 March, 1968, with intent to commit murder, commit an assault upon a group of 30 Vietnamese nationals, more or less, by shooting at them with an M-16 rifle."

Mylai 4 was a hamlet within the village of Songmy.

The decision to court-martial Sergeant Mitchell was made by his present commander, Maj. Gen. John K. Boles Jr., the commanding general of the First Armored Division, which is stationed at Fort Hood.

No Date Set

The Army said the trial would be held at Fort Hood but set no date for it.

"The date will be determined," the announcement explained, "by the length of time needed by the defense and prosecution to prepare for trial."

Sergeant Mitchell will be represented by a civilian lawyer, Ossie Brown of Baton Rouge, La., and by Capt. James L. F. Bowdish of the Judge Advocate General's Corps. The military judge will be Col. George R. Robinson of Fort Sill, Okla.

The Uniform Code of Military Justice requires at least five members of the court—or jurymen—at a general court-martial. The Army has appointed nine; they range in rank from first lieutenant to colonel. Sergeant Mitchell has the right to request that one-third of the jurors be enlisted men.

The sergeant is currently under no restraint at Fort Hood despite the charges against him. Defense Department sources said General Boles did not think it necessary.