

CALLEY GUILTY OF MURDER OF 22 CIVILIANS AT MYLAI; SENTENCE EXPECTED TODAY



Associated Press
First Lieut. William L. Calley Jr. being escorted by an Army sergeant yesterday from the courtroom where he heard the jury's verdict of guilty in the Mylai case. The lieutenant was taken to the stockade at Fort Benning, Ga.

APPEAL IS CERTAIN

MAR 30 1971
Army Jury Must Set
Penalty of Death or
Life Imprisonment

By HOMER BIGART

Special to The New York Times

FORT BENNING, Ga., March 29 — First Lieut. William L. Calley Jr. was found guilty today of the premeditated murder of at least 22 South Vietnamese civilians at Mylai three years ago.

He faces a mandatory sentence of death or life imprisonment. Arguments in mitigation will be heard tomorrow by the same jury of six officers that sentenced him today, and the punishment will probably be announced tomorrow afternoon.

An appeal is automatic within the military court system and could consume months.

The verdict in this protracted war crimes trial, the longest in the history of military justice, was announced at 4:31 P.M. after 79 hours and 58 minutes of deliberation stretching over 13 days.

Courtroom Filled

The small, harshly lighted courtroom, with its red carpet, white walls and blue draperies, was only comfortably filled when the jury came in.

Lieutenant Calley, a short, stocky 27-year-old who led his platoon on a sweep through an undefended hamlet called Mylai 4 March 16, 1968, was escorted before the jury box. Silence fell in the courtroom.

He stiffly saluted the president of the jury, Col. Clifford H. Ford, a partly gray, 53-year-old veteran of World War II and Korea with three rows of ribbons on his chest. The colonel returned the salute and, in a gentle voice, began reading the verdict.

"Lieutenant Calley," he said, "it is my duty as president of this court to inform you that the court in closed session, and upon secret, written ballot, two-thirds of the members present at the time the vote was taken, concurring in each finding of guilty, finds you:

"Of specification one of the charge: guilty."

Four Specifications

The Government had charged Lieutenant Calley with four specifications of premeditated murder involving at least 102 men, women and children. The first specification charged that he killed at least 30 noncombatants along a trail at the south end of the village.

Colonel Ford announced that the jury had found Lieutenant Calley guilty of the premeditated murder of "an unknown number, no less than one."

The second specification charged Lieutenant Calley with the murder of at least 70 civil-

Continued on Page 12, Column 3

Continued From Page 1, Col. 8

ians in a ditch outside Mylai. Colonel Ford announced that the jury had found Lieutenant Calley guilty of the premeditated murder of "an unknown number, no less than 20" in this incident.

In the two remaining counts, the jury found Lieutenant Calley guilty of the premeditated murder of a South Vietnamese male in white robes, possibly a monk, and of assault with intent to commit the murder of a small child.

In the case of the child, the original charge was murder, but the judge told the jury, in his charge, that a verdict on the lesser charge was permissible. One reason Lieutenant Calley was convicted of murdering 22 persons, rather than 102 as charged, was that witnesses disputed the number of dead at Mylai, some saying they had counted fewer than 100. The jury's finding, therefore, reflected its effort to reconcile the contradictions in the testimony.

Lieutenant Stares

As he heard the verdict, Lieutenant Calley stood ramrod stiff, his face flushed. His eyes, normally half-closed, were wide open as he stared at Colonel Ford.

He saluted again, this time rather crookedly, and walked stiffly back to the defense table.

There was no demonstration. The military judge, Col. Reid W. Kennedy, told the jury: "Gentlemen, we will go into the sentencing phase tomorrow."

Then Lieutenant Calley was led down a corridor to the office of his lawyers. Some 30 minutes passed before a confinement order, signed by Col. Frank L. Garrison, commanding officer of The Student Brigade, was produced.

A crowd of about 100 spectators stood outside the red brick courthouse. As Lieutenant Calley emerged, surrounded by military policemen, a woman yelled: "We're with you, Calley."

Calley Silent

Lieutenant Calley strode past the crowd and got into a military police car. He had orders from his chief counsel, George W. Latimer, not to talk until after the sentencing tomorrow.

But Mr. Latimer, a 70-year-old retired judge of the Court of Military Appeals, said of the verdict: "It was a horrendous decision for the United States, United States Army and for my client."

He said it was "much tougher than I anticipated" and said for his client: "Take my word for it, the boy is crushed."

Lieutenant Calley was not handcuffed when driven to the stockade.

He is expected to be flown to the Army Disciplinary Barracks at Fort Leavenworth, Kan., immediately after he is sentenced. Meanwhile, he is confined in a separate officers' cell at the stockade, a room normally used by the chaplain as an office.

According to an Army news release distributed immediately after the verdict, the cell has two rooms.

The first room, the release said, is about 10 feet wide by seven and a half feet long and contains a desk with a straight chair.

The next room is about 10 feet wide by 12 feet long. The wall is green for the first five feet, then white. The room is furnished with a desk and a straight chair, a standard Army bunk with two sheets, two blankets and a pillow, an air conditioner and a radiator. There are three hooks on the wall with hangers.

When the prisoner is not in consultation with visitors or legal counsel, there is a guard in the first room, the release said. There is a barber shop next door.

"This boy is a product of the system," Mr. Latimer said of the lieutenant today. "He was taken out of his own home, given automatic weapons, taught to kill. They ordered him to kill. And then the same Government tries him for killing and selects the judge, the court and the prosecutor."

Society Blamed

Society is to blame, Mr. Latimer told reporters.

From now on, parents will be less willing than ever to send their boys to Vietnam, he said. And soldiers will be "less likely to obey orders in the field."

Mr. Latimer said he would call no witnesses for tomorrow's hearing on mitigation and extenuation. He said he would appeal all the way through the military and civilian courts.

As for what he would say tomorrow in mitigation, he said: "Well, I'm not going to ask that they put him into the gallows and string him up by the neck."

The last time a soldier was executed was on April 13, 1961. He was Pvt. John Bennett, hanged for rape at Fort Leavenworth.

25 Men Charged

Lieutenant Calley was among the 25 officers and enlisted men originally charged by the Army with either participating in the atrocities at Mylai or attempting to "cover up" the tragedy.

Two of the 25 were tried and acquitted before today's verdict and charges against 19 have been dismissed.

Three await trial. They are Capt. Ernest L. Medina, charged with the over-all responsibility in the death of no fewer than 100 South Vietnamese, and two specific premeditated murders, one of a South Vietnamese woman and one of a small boy; Col. Oran K. Henderson, the former commander of the 11th Brigade, accused of dereliction of duty and failure to obey lawful regulations in suppressing information about the incident, and Col. Ernest M. Kotouc, the intelligence officer of the 11th Brigade, accused of maiming a prisoner.

The two men acquitted were S. Sgt. David Mitchell, who had been charged with assault with intent to commit the murder of 30 Vietnamese and who was cleared by a jury of seven officers at Fort Hood, Tex., on Nov. 20, and Sgt. Charles Hutto, who was acquitted Jan. 14 on a charge of assault with intent to commit murder by a jury of six officers at Fort McPherson, Ga. The Mitchell jury deliberated 6 hours 46 minutes, and the Hutto jury was out two hours.

Among those against whom charges have been dismissed were Maj. Gen. Samuel W. Koster, former commander of the Americal Division who became Superintendent of the United

States Military Academy at West Point. General Koster resigned the post when he was accused of failure to obey lawful regulations and dereliction of duty in not reporting possible atrocities.

General Koster's appearance as a witness in the Calley case was requested by the jury here, but the military judge refused to call him, saying that the general's testimony would not be relevant to the charges against Lieutenant Calley.

The Calley trial, which began last Nov. 12, was one of the longest and most sensational in the history of American military justice.

Testimony disclosed that the company in which Lieutenant Calley was a platoon leader committed acts that were outlawed by international conventions on the rules of war.

Unarmed civilians, including women, children and babies, were gunned down at point-blank range.

Orders were issued by Captain Medina to use captured Vietnamese as "guides" across suspected mine fields; they would become human mine detectors walking ahead of the troops.

(Lieutenant Calley testified that the prisoners were never so employed at Mylai because they moved too slowly and held up the advance. So, he said, he had them shot on Captain Medina's orders. Captain Medina acknowledged telling Lieutenant Calley to use the prisoners in the mine fields, but denied ordering them slain.)

It was a common practice among some American units to burn houses, kill all the animals, and destroy the food and wells in villages suspected of harboring Vietcong.

Medical corpsmen joined in. Under the laws of war, medical personnel are noncombatants.

Text of the Calley Verdict

Special to The New York Times

FORT BENNING, Ga., March 29—Following is the text of the verdict in the court-martial of First Lieut. William L. Calley Jr., read by Col. Clifford H. Ford:

Lieutenant Calley, it is my duty as president of this court to inform you that the court in closed session, and upon secret written ballot, two-thirds of the members present at the time the vote was taken concurring in each finding of guilty, finds you:

Of specification one of the charge, guilty of premeditated murder, except the words "an unknown number, not less than 30," substituting therefor the words "an unknown number not less than one." Of the excepted words, not guilty; the substituted words, guilty.

Of specification two of the charge, guilty, except the words "an unknown number not less than 70" and substituting therefor the words "an unknown number not less than 20." Of the excepted

words, not guilty; of the substituted words, guilty.

Of the charge, as to specification one, guilty.

Of the charge, as to specification two, guilty.

Of specification one of the additional charge: guilty.

Of specification two of the additional charge, guilty of assault with intent to commit murder, thereby excepting the words "with premeditation, murder" substituting therefor the words "with intent to commit murder, commit an assault upon." Of the excepted words, not guilty, of the substituted words, guilty.

Of the additional charge, as to specification one, guilty.

Of the additional charge, as to specification two, not guilty, but guilty of the violation of Article 134.

No Civilian Evacuation

The trial also brought out that there were no provisions for the evacuation of civilians and for the treatment of wounded civilians. Following the Mylai assault, a prisoner was deliberately mutilated.

During the long trial, Lieutenant Calley said that his victims were not human but, in the words of his attorney, Mr. Latimer, "an enemy with whom one could not speak or reason."

Lieutenant Calley volunteered from the witness stand that he felt no remorse, that he had been following orders.

"They were all enemies," he said. "They were all to be destroyed."

This application of the "mere Gook rule"—that the natives are "mere Gooks"—brought the following reply from Capt. Aubrey M. Daniel, the Government prosecutor, during the closing moments of the trial:

"They were human beings. Yet they were herded in the ditch like so many cattle. What can justify, gentlemen, the shooting in cold blood of an infant, a child, or any human being who is offering no resistance.

"Lieutenant Calley claims he did his duty. To make that assertion is to prostitute all the humanitarian principles for which this nation stands, to prostitute the true mission of the United States soldier.

"The defense would ask you to legalize murder.

"How could we as a nation ask for humane treatment of our own prisoners while condoning inhumane treatment of theirs?"

Lieutenant Calley and another witness, Paul Meadlo, a rifleman in Calley's platoon and his alleged chief accomplice in the mass shootings, stressed that women and children were sometimes as dangerous as Vietcong soldiers. Neither could recall ever having been attacked by a child, but they said they had heard stories of children tossing grenades and planting mines and booby traps.

Even babies were not to be trusted, Mr. Meadlo testified.

"Any baby might have been loaded with grenades that the mother could have thrown," he explained.

The Geneva Convention says that persons suspected of violating the laws of war must be "treated with humanity" and not punished without trial.

Captain Daniel noted in his summation that Lieutenant Calley assumed at Mylai the self-appointed role of "judge, jury and high executioner" in mowing down women and children whose only crime, he said, was to be in the wrong place at the wrong time.



Associated Press

COURTROOM PRINCIPALS: George W. Latimer, left, chief defense counsel; Col. Reid W. Kennedy, center, judge, and Capt. Aubrey M. Daniel, prosecutor, in the Calley trial.