

APR 7 1971

HENDERSON WINS MYLAI DATA PLEA

Army Must Give Colonel All
the Previous Testimony

FORT MEADE, Md., April 6 (AP)—A defense motion directing the Army to produce all previous testimony in the Mylai case was granted today by the military judge presiding over the pretrial hearing for Col. Oran K. Henderson.

Colonel Henderson's trial is not due to get under way until perhaps June 1, and the task of assembling the testimony may delay the opening beyond that time.

The chief military defense attorney said, meanwhile, that he thought there was a chance that two of the four charges would be dropped.

"I think Henderson was a suspect," said the attorney, Lieut. Col. Frank Dorsey. "He was given a warning of sorts, but I feel it was legally inadequate."

The defense contends that



United Press International

Col. Oran K. Henderson during recess in hearing at Fort Meade yesterday.

Colonel Henderson was given inadequate warning that he was a defendant.

"Either you lay it on the line and give all the necessary warning or nothing should be done, said Henry Rothblatt, Colonel Henderson's civilian attorney from New York.

Charges Are Listed

Colonel Henderson is charged with dereliction of duty, failure to obey lawful regulations, making a false official statement and false swearing in connection with an alleged cover-up of the Mylai killings. Colonel Dorsey said that he thought the charges of giving a false official statement and false swearing could be dropped because of what he called the inadequate warning.

The defense motion to secure previous testimony in the Mylai case was called untimely by the prosecution, which agreed, however, to make every effort to see that transcripts became available.

Colonel Dorsey said that there were as many as 126 prospective witnesses, and that the prior transcripts were needed "to expedite the case so we will know what witnesses will probably answer to certain questions."

The defense also asked permission to seek the help of both criminal and military investigators, but the request was denied.

"We would feel more secure with an outside investigator," Mr. Rothblatt told the court. "We'll do the best we can" in terms of investigation, he added, but he confirmed that the defense had no investigating personnel.

Colonel Henderson is the highest ranking officer still facing charges and possible trial growing out of the Mylai killings. He was commander of the Americal Division's 11th Brigade, of which First Lieut. William L. Calley Jr.'s platoon—which raided Mylai—was a part.