

Calley Prosecutor Testifies Army Blocked His Bid

By HOMER BIGART

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FORT McPHERSON, Ga., June 21—Capt. Aubrey M. Daniel 3d, the young Virginian who successfully prosecuted First Lieut. William L. Calley Jr. for the massacre at Mylai, testified today that the Army had blocked his attempt to call as a Government witness Capt. Ernest L. Medina, who is about to stand trial here for over-all responsibility in the incident.

Other statements charging attempts by superior officers to prejudice the course of military justice against Captain Medina were heard at the start of a pretrial hearing.

F. Lee Bailey, defense attorney, charge that one of his assistants, Capt. John R. Truman of Independence, Mo., a grandnephew of former President Harry S. Truman, had been harassed and downgraded by an Army superior on the ground that he had devoted too much time to the Medina case.

And Staff Sgt. Charles La Croix of Fort Carson, Colo., a former member of Captain Medina's company, said that he had been threatened with court-martial for premeditated murder if he refused to testify against Captain Medina.

Col. John Wilson Callaway, the former commander of Fort McPherson, said that he felt last August that Captain Medina should be dismissed from the Army even if he were acquitted.

Colonel Explains View

It was in August that he submitted the recommendation that the captain be "separated from service and tried by court-martial."

Under cross-examination by Mr. Bailey, Colonel Callaway said that he was aware that a lie-detector test had indicated that Captain Medina had told the truth when he denied giving any order to massacre civilians at Mylai and was equally truthful in saying that he had shot a Vietnamese woman in self-defense because he thought she had a grenade.

But a witness had said that Captain Medina was fully 150 yards from the woman and in no peril from her, Colonel Callaway said, and "based on other evidence I had, I felt



Associated Press

Capt. Aubrey M. Daniel 3d, prosecutor in Calley case, arriving to be a witness.

that the charges should stand."

Captain Daniel explained why he had wanted Captain Medina as a witness for the prosecution: "I took the position that the Calley trial was a search for truth," he said.

The main defense of Lieutenant Calley, who was convicted last March of premeditated murder of 22 South Vietnamese civilians, was that he was acting under orders from Captain Medina to kill the civilians.

Captain Medina would have been deprived of a chance to testify at the Calley trial if the jury had not ordered his appearance as a witness for the court. From the stand, Captain Medina denied that he had ever ordered the killings.

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Captain Daniel said that he was told in February that he could not call Captain Medina. This order was transmitted to him orally, he said, by Col. Robert M. Lathrop, staff Judge Advocate at Fort Benning. Captain Daniel requested a written order, receiving it a few days later. A copy of the order was put in evidence, but Col. Kenneth A. Howard, the military judge, would not let reporters see it.

Captain Daniel and Colonel Lathrop had gone to the Pentagon to ask Brig. Gen. Harold E. Parker, Assistant Judge Advocate General for Military Justice, for permission to call Captain Medina.

Opposing the request was Maj. William G. Eckhardt of Fort McPherson, who has been selected as Government prosecutor in the Medina case.

Major Eckhardt testified today that one reason he had opposed the appearance of Captain Medina at the Calley trial

and other trials of Mylai defendants was that it would only afford the captain opportunity to make "self-serving statements that would not be beneficial."

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But was not Captain Medina the strongest possible witness against the contention of the other defendants that they were only obeying orders, Mr. Bailey asked. He then suggested

that the Army had deliberately chosen to lose its cases against S. Sgt. Charles Hutto

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to Call Medina as Witness

and others and concentrate its attack on Captain Medina.

The Army knew, he said, that it could not call Captain Medina as its witness because such an act would vouch for the captain's veracity. The Army feared a bad public reaction, he added, if it then turned around and tried to prove that Captain Medina lied in denying that he had ordered the Mylai massacre.

Captain Truman's superior, Col. Wayne D. Williams, staff judge advocate at Fort McPherson, said that he had

downgraded the captain's efficiency report from the high 90's to 90 because the captain had shown an "unwillingness to share the workload."

"The only reason you knocked him down," Mr. Bailey charged, "was because he didn't want to be harassed by other work."

The lawyer said that a confrontation had ended with Colonel Williams telling Captain Truman, "Get out of my office, get out."

"I did tell him 'out,' Colonel Williams said.