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Judge Likens Medina Trial To Historic Yamashita Case

FT. McPHERSON, Ga. (AP) — Lt. Col. Kenneth Howard, who will preside at the court-martial of Capt Ernest Medina, says he thinks the Medina case will be "the Yamashita case" all over again.

In an interview yesterday, Howard referred to a Japanese general who was tried by the United States after World War II for atrocities committed by his troops in the Philippines.

Medina, 34, goes on trial Monday charged with the premeditated murder of 102 Vietnamese civilians at My Lai in March 1968. The Army has said he is held responsible for the deaths and is not accused of personally slaying 100 civilians. The captain is accused in separate charges of killing two victims himself.

IN EXPLAINING the charges against Medina, Army Prosecutor William Eckhardt said that Medina is a "principal" to the crimes. Under the Uniform Code of Military Justice, a "principal" is one who "counsels, commands, or procures another to commit an offense . . ."

That person, said Eckhardt, "is as guilty of the crime as if he had committed it." The prosecutor declined to say whether the Army will prosecute Medina for ordering the massacre at My Lai or for failing to stop it.

Howard said he felt "the approach in Medina's case will be the Yamashita case all over."

The Japanese general, Tomoyuki Yamashita, was hanged for atrocities committed by his troops. The United States never established that Yamashita actually ordered the atrocities, but convicted him for failing to take sufficient measures to stop them.

MEDINA will be tried on a non-capital basis, which means the maximum sentence a jury could give him would be life imprisonment.

This is the second historic My Lai trial Howard has presided over. The first was Sgt. Charles Hutto, who was acquitted of charges arising from the My Lai operation.

The 47-year-old Howard won the Legion of Merit for his work as a military judge in Vietnam.

"What's happened in courts in the My Lai cases is innovative," said Howard. "Things have happened that the Army has never had happen—like

arguments being made in one My Lai case in federal court."

HE ALSO said he had benefited considerably from procedures in the Lt. William Calley court-martial. Calley, one of Medina's platoon leaders, was convicted in March of 22 murders at My Lai and sentenced to life. His case now is under review.

"This case is going to go much smoother and faster than Calley's," Howard said,

referring to the length of the Calley court-martial. It ran four and a half months—the longest in military history.

The Calley case was given a lengthy delay for a sanity hearing, an issue which has not been brought up in the Medina case.

And, said Howard, defense attorney F. Lee Bailey has said there are many issues he is not going to press—and this will eliminate the calling of witnesses involved with those issues.