

CALLEY MAY BALK AT MEDINA TRIAL

Lieutenant's Attorney Will Advise Him Not to Testify

By HOMER BIGART

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ATLANTA, Sept. 12.—First Lieut. William L. Calley Jr. will be advised by his attorney not to testify unless he is threatened by sanctions when he takes the stand tomorrow at Fort McPherson in the My

lai murder trial of his former company commander, Capt. Ernest L. Medina.

The attorney George W. Latimer of Salt Lake City, said that the young officer would be at the mercy of the military judge, Col. Kenneth A. Howard, when forced to appear as a witness for Captain Medina.

Lieutenant Calley was convicted earlier this year of killing civilians at My Lai in 1968. Unless the judge commands Lieutenant Calley to testify under threat of sanctions he will not speak, Mr. Latimer said. "That will be my advice to him."

"However, should the judge command Lieutenant Calley to testify over his claimed privilege [against possible self-incrimination] further consideration shall be given the matter."

Because Lieutenant Calley has not been stripped of rank despite his conviction last March, he remains subject to the Uniform Code of Military Justice and his willful refusal to comply with a court-martial would carry a maximum penalty of five year's confinement, Mr. Latimer said.

F. Lee Bailey, counsel for Captain Medina, has demanded that the Government produce Lieutenant Calley, saying that he had information that Lieutenant Calley had "changed his story," and that the changes were favorable to Captain Medina.

Throughout his trial, Lieutenant Calley insisted that Captain Medina had given orders to kill all inhabitants at My Lai, including women and children.

Mr. Latimer, a former judge of the highest military court, said that he would confer with the Court of Military Appeals, Lieutenant Calley in the latter's bachelor quarters at Fort Benning.

Two days after he was sentenced to life imprisonment, Lieutenant Calley was removed from the Fort Benning stockade and transferred to his apartment on direct orders from President Nixon. Subsequently, his sentence was reduced to 20 years by the commander of the Third Army, Lieut. Gen. Albert O. Connor.

"I don't think Calley believes he has changed his mind," Mr. Latimer said.

"Medina was an idol to Calley, and I'm certain Calley wouldn't hurt Medina any more than was necessary to save his [Calley's] life."

Mr. Latimer predicted that the remaining appeals available to Lieutenant Calley would take two years. And he thought President Nixon would own defense.

"still be around" to give the final opinion on whether the lieutenant should serve out the sentence. Mr. Nixon has promised that he will make the final review of the Calley case.

The Medina trial is nearing its climax. The Government rested Thursday, and on Friday Judge Howard denied defense motions to dismiss the charges.

Mr. Bailey said that Captain Medina, charged with over-all responsibility for the killing of "no less than 100" noncombatants at My Lai on March 16, 1968, and with the specific murders of a woman and a small boy, would testify in his own defense.