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ARMY WINDING UP HENDERSON CASE

Presents Its 62d and Final
Witness in Mylai Trial

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FORT MEADE, Md., Oct. 18

— The Government presented its 62d and last witness today in the court-martial of Col. Oran K. Henderson on charges that he covered up the murder of civilians in an infantry attack on the hamlet of Mylai 4.

Only last-minute technical snags kept the prosecution from officially resting its case. One delay was caused by the seven-member jury, which is not expected to complete until tomorrow the reading of prosecution documents in closed session.

The Government also postponed the end of its case until the military judge had ruled on whether a tape recording now in the hands of the defense could be examined by the prosecution before the defense offered it in evidence.

The recording, which apparently contains the voice of the late Lieut. Col. Frank A. Barker describing in detail the "success" of the Mylai operation, is believed by the defense to be helpful in supporting Colonel Henderson's contention that his staff officers did not tell him of the large-scale killing of unarmed civilians.

Judge Hears Tape

Colonel Barker, who was killed in a helicopter crash in June, 1968, three months after the Mylai incident, was the commander of the infantry task force that carried out the attack.

This afternoon, the judge, Col. Peter S. Wondolowski, listened to the tape in his chambers, then deferred making a ruling.

Despite the winding up of the Government's case, the defense will not present the first of 38 scheduled witnesses until Nov. 8. The delay will give the defense time to round up its witnesses, allow for the introduction of technical motions and permit Colonel Wondolowski to attend a judicial convention in Atlanta later this month.

In the more than eight weeks of testimony, the Government has attempted to prove that Colonel Henderson was derelict in his duty to carry out an adequate investigation of the Mylai killings, failed to report a war crime and lied in two appearances before an Army board studying the possibility of a coverup.

Prosecution's View

Among the points that the prosecution seems to feel it has made through testimony are the following:

¶A wealth of information was available to Colonel Henderson on the details of the killings if he had chosen to interrogate the men who had participated.

¶Although the defendant said in previous testimony that he had seen no civilian bodies from his command helicopter, other men aboard the same aircraft told of seeing the bodies of old men, women and children.

¶Three helicopter crewmen said that they had been interviewed by a full colonel and reported allegations of indiscriminate killings.

¶Two high-ranking officers said that they had told Colonel Henderson of the allegations that about 125 civilians had been cut down in the hamlet.

¶In at least two reports made by Colonel Henderson to his division commander, he consistently said that only 20 civilians had been "inadvertently killed" and made no mention in these reports of the charges of the fliers.

¶The repeated contention by the colonel in his reports that an armed, resisting enemy had been encountered in Mylai despite repeated testimony that no hostile fire had been encountered.

Ground Is Lost

On the matter of the false swearing before the Army panel, the prosecution appears to have lost ground. One of the specifications was that the defendant denied talking to two helicopter crewmen about the incident.

One crewman could not identify the colonel as the man to whom he had spoken. The other was not permitted to make an in-court identification after the judge ruled that he had previously been shown photos of the defendant in such a manner as to "taint" the identification.

In previous testimony and in news conferences, Colonel Henderson said that he had been told by his men that nothing unusual had occurred at Mylai.

"People told me that it didn't happen, and I accepted their word . . . especially the word of my senior commanders," he said in one interview.

Henry B. Rothblatt of New York, the chief civilian defense attorney, has indicated that Colonel Henderson will take the stand during the defense's presentation. Other witnesses to rebut specific points, he said, will include and vouch for the colonel's character.

"I think I may be able to finish my case in a week," he told newsmen today. "Unless, of course, we get tied up with extensive cross-examination."