

Colonel Called a 'Disgrace' and 'Great' in Trial Debate

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— Col. Oran K. Henderson was portrayed today as a man who had brought "dishonor, disgrace and humiliation" to the uniform of the United States Army by his alleged concealment of the mass slaying of South Vietnamese civilians by American troops in the hamlet of Mylai 4.

The description was offered by the military prosecutor in his final argument to a jury of two generals and five colonels who will retire tomorrow to deliberate.

Colonel Henderson, a former brigade commander, has been on trial here for almost four months.

'A Great Soldier'

In his summation, the prosecutor, Maj. Carroll J. Tichenor, suggested that the defendant's actions had been motivated by fear of losing his command, which he had held for a day and a half at the time of Mylai, and apprehension that he would not be promoted to general if it were known that his men had committed a war crime.

The defense, in rebuttal, described Colonel Henderson as a "great soldier" and said his "professionalism, his integrity and his willingness to accept responsibility and his reputation for veracity are excellent."

"He is no filthy felon who finally got caught by some investigating committee," shouted Henry B. Rothblatt of New York, the defendant's civilian attorney. Instead, the lawyer said, the colonel is the same "great officer" referred to by at least 18 high-ranking officers who provided character references.

Colonel Henderson, a 51-year-old veteran of three wars, is accused of having "willfully failed" to conduct an adequate investigation of the Mylai incident, of having failed to report a war crime to his commanding officer and of having lied under oath in testimony before an Army panel inquiring into a possible command cover-up of the slayings.

In his closing argument, Major Tichenor, constantly checking 79 pages of typewritten notes, described as "hopelessly inadequate" Colonel Henderson's report to his division commander that only 20 civilians had been inadvertently killed at Mylai.

'He Never Checked'

"Under no circumstances did what he do measure up to the standards of investigation," he told the jury. "He never checked into those civilian casualties on his own. He still can't explain today what happened to those 20 civilians and what mistakes occurred that led to their deaths."

The prosecutor stressed that

a number of witnesses had seen civilian bodies from the air, including men aboard the colonel's own command helicopter.

"Some 47 to 68 bodies were seen by people in Colonel Henderson's plane alone," he said. "Colonel Henderson says he saw at most 6 to 10 bodies, or so he'd have you believe."

Major Tichenor, who spoke for two hours and 55 minutes, recalled testimony by several witnesses that Colonel Henderson had been informed of unnecessary killing in the hamlet. He said the defendant had made "absolutely no effort" to determine how many persons had been slain and how they had died.

"The number of one person murdered cannot be treated lightly, nor can the number of 20 people," he said. "These numbers cannot be brushed aside with the attitude of 'Oh, there were only 20 civilians killed. We don't have to be concerned.'"

He also recalled testimony that there had been no reports that the infantry unit assaulting Mylai had ever come under enemy fire. The colonel "must have known" that there had

been no battle and that the official body count of 128 Vietnamese was "suspicious," the prosecutor said.

For his part, Mr. Rothblatt told the jury that the idea that trials were a search for truth and justice were "bunk." Cases, he said, are not determined by truth but "only by the evidence."

He contended that the reliability of witnesses was questionable after long periods of time and that some of the testimony at this court-martial was a "patchwork jangle of the recollections of men."

He maintained that some of the Colonel Henderson's men had deliberately misled him when the officer tried to find out what had happened at Mylai.

Mr. Rothblatt suggested that the military might become what he termed a "fifth rate army" if Colonel Henderson were convicted.

"If you find Colonel Henderson guilty, I suggest the Army give every commander a first-class lawyer to advise him on when to fire and assign him a team of criminal investigative agents to look into everything the troops may do," he said.