

HIGH COURT GETS CALLEY'S APPEAL

Convicted Mylai Murderer
Cites Nixon's Stand on
Watergate Evidence



Associated Press
William L. Calley Jr.

WASHINGTON, Nov. 28 (AP)—William L. Calley Jr. asked the Supreme Court today to overturn his Mylai murder conviction, saying Congress had no more right to withhold testimony for his trial than President Nixon did for the Watergate prosecutions.

Mr. Calley's petition says refusal to release secret Congressional testimony "emasculates the protections of the bill of rights."

The appeal for Mr. Calley, now 32 years old, is the latest in a string of legal actions since the former first lieutenant was convicted on March 29, 1971, of murdering 22 civilians in Mylai, a hamlet in South Vietnam, on March 16, 1968. His original life sentence was reduced to 20 years, then 10.

Mr. Calley, the only man convicted in the mass killings, has been living in Columbus, Ga., since Judge J. Robert Elliott of Federal District Court set aside the verdict in September 1974 and freed him after some three years of house arrest. The United States Court of Appeals for the Fifth Circuit reversed Judge Elliott's ruling and reinstated the conviction. The petition to the Supreme Court is an appeal from that decision.

Pretrial Publicity

Mr. Calley also contends that overwhelming publicity before his trial prejudiced the six members of the court-martial panel.

His petition does not restate the details, but says:

"Suffice it to say that never before in American history has an accused encountered such intense and continuous prejudicial publicity. Self-proclaimed surviving witnesses were interviewed. Every critical witness who testified at the trial against the petitioner was interviewed and each story was widely publicized."

Mr. Calley now works for a construction company near Fort Benning, Ga., where his court martial was held. He is engaged to Penny Vick, daughter of a Columbus jeweler, drives a Mercedes-Benz and lives in a fashionable townhouse apartment.

Ann Moore, his girl friend during the trial and almost daily visitor through three

years of house arrest, has since married and moved.

Before the trial, a House Armed Services subcommittee conducted an investigation into the 1968 military operation at Mylai, in which the Army concedes that 347 unarmed civilians were killed.

Subpoena Ignored

The subcommittee's report was subpoenaed twice, but the panel ignored the subpoena. The trial judge, Col. Reid Kennedy, claiming inability to force the subcommittee to release the testimony, refused Mr. Calley's demand that the testimony of any witness who had testified before the panel be stricken from the court-martial record because he had no opportunity to compare what was said at the hearings with what was testified to at the trial.

The Calley petition calls attention to Mr. Nixon's contention that he should not be forced to turn over tape recordings of Watergate-related conversations to prosecutors preparing for the Watergate cover-up trial of his associates.

The Supreme Court found that Mr. Nixon's privileges of confidentiality had to yield when it came to evidence needed to prosecute the cover-up, the Calley petition said.

The same contention had been raised before the appellate court, which refused 8 to 5, to let the conviction remain overturned.

One of the reasons advanced by the appellate court was that Mr. Calley's attorneys had not demonstrated that the testimony sought was material to the trial.