

Sergeant Accuses Westmoreland in Songmy Case

FORT McPHERSON, Ga., Sept. 9 (UPI) — A sergeant involved in the alleged Songmy massacre charged Gen. William C. Westmoreland today with dereliction of duty and said that the general, now the Army Chief of Staff, must shoulder the blame for whatever happened in the Vietnamese village.

Charles Weltner, attorney for Sgt. Esequiel Torres, 22 years old, said he would ask that action against all defendants in the case be delayed until the question of ultimate responsibility was resolved.

Mr. Weltner disclosed his client's charge during a recess at a preliminary hearing for Sergeant Torres. After four hours of arguments, the court recessed until Thursday morning. Motions to subpoena General Westmoreland and other high officials were denied.

Sergeant Torres, of Brownsville, Tex., is charged with the machine-gun murder of at least three South Vietnamese civilians, the hanging of another and assault with intent to kill three others.

"Based upon my understanding of the findings of the Peers-McCrate inquiry [an investigation by the Army into the alleged incident], I believe that

General Westmoreland is responsible for whatever casualties that were inflicted on Vietnamese civilians at Mylai 4 hamlet on March 16, 1968," Sergeant Torres said in his charges.

Resor Gets Charge

A copy of the charge was forwarded by mail to Secretary of the Army Stanley R. Resor, along with a charge sheet containing the names of five witnesses. The five included Maj. Gen. Samuel Koster, Col. Oran K. Henderson, Maj. Charles Calhoun, Lieut. Hugh Thompson and Lieut. William Calley.

Lieutenant Calley has been charged with 102 counts of murder in the alleged massacre, and General Koster, Colonel Henderson and Major Calhoun have been accused of dereliction of duty for not investigating or reporting the incident. Lieutenant Thompson is a helicopter pilot who witnessed the army's sweep through Songmy from the air.

As evidence to the validity of his charge, Sergeant Torres listed Volume 1 of the Peers Committee Report and a telegram of commendation that General Westmoreland sent to officers involved in the Songmy campaign complimenting them on the body count of

109 in the sweep through the village.

Mr. Weltner contended that there was ample precedent for the charges against General Westmoreland, recalling that the United States had tried and convicted Gen. Tomoyuki Yamashita of Japan for crimes his troops committed in the Philippines during World War II.

Mr. Weltner said that Yamashita was held responsible for the crimes although he had become separated from his troops after they had been routed by American forces.

Sergeant Torres brought his charge under the Uniform Code of Military Justice. It states:

"In that William C. Westmoreland, Chief of Staff, United States Army, Washington, D. C., while then serving as Commanding General, United States Army (Vietnam), was derelict in the performance of his duties in failing to control troops within his command so as to prevent such troops from inflicting needless injuries on Vietnamese civilians."

Army Awaiting Charges

Special to The New York Times

WASHINGTON, Sept. 9—An Army spokesman said today

that the charges against General Westmoreland had not yet been received at Army headquarters.

When they are, he added, they will be reviewed by Army lawyers "with some interest" before a decision is made on how to proceed.

Normally, courts-martial charges are referred to the commanding officer of an accused soldier. He decides whether to proceed with an investigation or drop charges.

Under the Uniform Code of Military Justice, any person subject to the code—that is, any soldier—can bring charges against any other person subject to the code.



United Press International

Sgt. Esequiel Torres