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GUARDSMEN DENY KENT STATE GUILT

8 Arraigned in Cleveland in
Federal Rights Case

By AGIS SALPUKAS
Special to The New York Times

CLEVELAND, April 4 —One present member and seven former members of the Ohio National Guard pleaded not guilty today to Federal charges of violating the victims' civil rights in the fatal shooting of four students at Kent State University in 1970.

The eight, wearing somber expressions, entered their pleas when they were arraigned before United States Magistrate Herbert Maher. Each was released on his personal recognizance.

The Federal indictment, returned last Friday, also charges the defendants with violating the rights of nine students who were wounded when Guardsmen fired upon students on May 4, 1970, when the Kent State campus was being swept by protests against the United States incursion into Cambodia.

Accompanied by their lawyers and their wives, the eight sat quietly in the small gray courtroom except to answer Magistrate Maher when he asked them how they pleaded and whether they understood the indictment and the provisions for their release.

In each case, Robert A. Murphy, chief of the Criminal Section of the Civil Rights Division of the Justice Department, who handled most of the grand jury proceedings, recommended that the defendants not be required to post bail. The magistrate consented but warned that a violation of the recognizance bond was punish-

able by five years in jail or a \$5,000 fine, or both.

After being booked and fingerprinted, the defendants, most of whom wore stylish suits and colored shirts and slightly mod hair styles, walked back to their attorneys' offices. They refused to answer reporters' questions.

Daniel Roth, who represents four of the defendants, filed motions yesterday asking Judge Frank J. Battisti, chief judge for the Northern District of Ohio, who impaneled the grand jury, to dismiss the case.

Delay Is Attacked

Mr. Roth, who represents James D. McGee, James E. Pierce, Ralph W. Zoller and Barry W. Morris, contended that the Government "has purposefully and deliberately delayed prosecution herein and said delay was unnecessary, unreasonable and oppressive, resulting in irreparable prejudice." He said that these elements made a fair trial impossible.

The Federal grand jury that issued the indictment, after three days of deliberation on the testimony it had heard, was impaneled last Dec. 18, more than three and a half years after the shootings.

The motion accused the Government of "gross misconduct rising to fraud and obstruction of justice" in delaying so long the calling of a grand jury.

It argued that the guardsmen had "every right" to believe that the case was closed when John N. Mitchell, then the Attorney General, concluded on Aug. 13, 1971, after an investigation by the Federal Bureau of Investigation and the Justice Department, that further action was "unwarranted."

One motion asked the court to order that Mr. Mitchell, now on trial in New York in a conspiracy case, and former Attorney General Richard G. Kleindienst be available to give

deposition in the Kent State case.

Some of the parents of the slain and wounded students, who have long worked to have the Government reopen the case, have collected material that they say indicates there may have been obstruction of justice by high Nixon Administration officials in the Kent State matter.

Steven A. Sindell, a local lawyer representing some of the parents, said this week that he had sent documents and other materials to Representative Don Edwards, chairman of a House subcommittee dealing with civil and constitutional rights. The panel headed by the California Democrat is looking into possible interferences by Administration officials with the functioning of the Justice Department.

The subcommittee is part of the House Judiciary Committee.

No motions have been made on behalf of the other defendants—Lawrence A. Shafer, William E. Perkins, Leon H. Smith and Matthew J. McManus, the only present member of the Guard.

Several defense funds have been set up by National Guardsmen and local businessmen. A group of 10 lawyers in Cleveland have offered their services free in what they describe as an effort to equalize the defendants' strength and resources with that of the Government's prosecution team.

Will Aid Defense Fund

Special to The New York Times

CLEVELAND, April 4—Arthur Krause of Pittsburgh, whose daughter Allison was killed at Kent State, said today that he would contribute to the Guard Legal Defense Fund set up by a group of Akron area businessmen.