

KENT STATE TRIAL HEARS EX-MARINE

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Vietnam Veteran Reiterates
That He Saw Guardsman
Fire the First Shot

NYTimes

CLEVELAND, June 4 (UPI)—

A former marine who is a veteran of the Vietnam war reiterated in testimony today that he saw a guardsman fire the first shot in a volley fired by National Guard troops into a group of students demonstrating against the war at Kent State University on May 4, 1970. Four students were killed and nine wounded.

Harry Montgomery of Sandusky, Ohio, a 28-year-old former Kent State student, testified in the \$48 million civil suit trial in United States District Court here.

Mr. Montgomery, under cross-examination and re-direct examination, said today he saw the guardsman fire a .45-caliber pistol at the students. In response to questions, Mr. Montgomery told how he determined that the guardsman was the first to fire.

"Because he was the first one to get completely around, to take aim, and to get into his shooting position," he said.

"I saw the recoil when he fired," Mr. Montgomery added. "The guardsmen in the immediate area in front of him turned and fired, also."

Mr. Montgomery testified yesterday that the men the guardsman "communicated with" promptly turned and fired their rifles at the students.

Defense attorneys for state officials and 42 former guardsmen being sued by the victims of the shooting or their families introduced a statement that the former marine gave the Federal Bureau of Investigation 11 days after the killings that partly contradicted his testimony yesterday.

Of the events five years ago, Mr. Montgomery said yesterday, guardsmen moved up a campus knoll known as Blanket Hill.

"One man lagged behind, carrying a .45 pistol," Mr. Montgomery said yesterday. "I saw him tap some guardsmen on the back—two, three or four—with his right hand. He was close behind them," Mr. Montgomery continued:

"Then he turned and he fired with the .45 pistol in his left hand. Almost simultaneously, the men in front of him, those with whom he had communication, turned and fired with rifles, downhill toward the students."

"I'd say the man with a .45 fired the first shot," Mr. Montgomery said. "There was one shot and then a volley. I saw the pistol recoil. It coincided with the sound."

Charles Brown, a defense attorney, then introduced Mr. Montgomery's statement to F.B.I. agents on May 15, 1970, in which he said "the soldier with the .45, which was now in his right hand, was the last guardsman up the hill, encouraging the Guard to move along by tapping them on their backs."

'Happened So Quickly'

Mr. Montgomery said yesterday, "I didn't really know what hand he had it in when I saw him fire it, it all happened so quickly."

Although Mr. Montgomery did not identify the man shown in pictures of the guardsmen when they fired, he has been identified in previous inquiries as Sgt. Myron Pryor.

In a deposition taken in the current case, Sergeant Pryor denied having fired and said his weapon was unloaded. An F.B.I. report said the weapon issued to him was not fired.

In other testimony today, Dean Kahler, a Kent State student crippled by a bullet fired by National Guard troops, said guardsmen fired tear gas at him and other students the night before the shootings.

Mr. Kahler, who is paralyzed from the waist down and appeared in a wheelchair at the trial, was the plaintiff's sixth witness in the cast.

In describing the events leading up to the shootings, Mr. Kahler testified that on the night of May 3, 1970, he joined other students on the edge of the campus who were marching toward the house of Robert I. Whitt, former president of Kent State, who is also one of the defendants in the suit, to discuss with him the presence of guardsmen on campus.

"As we went toward the president's house over the crest of the hill, we saw a line of national guardsmen and heard popping sounds and saw cannisters flying through the air," Mr. Kahler testified.

"When they landed we breathed the tear gas," he continued. "It made my eyes burn, my nose and mouth burn and my ears hurt. Lots of students ran, I ran back toward my dorm and shook my head to clear my eyes."