

## OFFICER IS GUILTY IN VIETNAM DEATH

But Army Panel Is Loath  
to Impose Life Sentence  
—May Review Verdict

By PHILIP SHABECOFF

Special to The New York Times

LONGBINH, South Vietnam, March 29—A military court convicted a young United States Army officer of the premeditated murder of a Vietnamese civilian today, and then moved to reconsider its decision when told that the conviction carried a mandatory sentence of life imprisonment.

Lawyers who were present said they could recall no other instance of a court's seeking to change its verdict after being informed of the sentence. A defense lawyer said he had seen no precedent in his 30 years as a criminal lawyer.

After six-and-one-half hours of deliberation today—following the week-long court-martial proceedings—the military court pronounced First Lieutenant James Brian Duffy guilty of the murder of an unarmed Vietnamese farmer, Do Van Man, last Sept. 5.

### Court Is Advised

But the eight members of the court appeared startled and downcast when the military judge instructed them that they had no alternative under the law but to impose a sentence of life imprisonment for the crime of premeditated murder.

Col. Robert W. Selton, president of the court, told the judge: "No member of the court was aware that a life sentence was mandatory."

When Lieutenant Duffy's civilian defense counsel, Henry B. Rothblatt of New York City, asked that the members of the

court be advised of their right to reconsider their decision before pronouncing sentence, they seemed to welcome the opportunity.

"The court deliberated very long on the ramifications to the Army of this offense," said Colonel Selton, adding: "We wanted to consider every mitigating factor and the circumstances here in Vietnam." The court-martial was recessed until tomorrow.

After the dramatic decision by the court, Mr. Rothblatt said outside the courtroom that Colonel Selton's reference to "ramification to the Army" was a "Freudian slip that indicates that the Army was on trial here and not Lieutenant Duffy."

Mr. Rothblatt had contended

Continued on Page 5, Column 1

throughout the trial that the Army's emphasis on the "body-count philosophy" was the major factor that had led Lieutenant Duffy to order the shooting of Mr. Man. The lawyer argued that the officer had thought he was following Army policy and thus could not be judged guilty of murder.

In his instructions to the court, however, the military judge ruled in effect that Mr. Rothblatt's line of defense was not relevant.

He said that the war in Vietnam was no different from any other in determining war crimes.

Mr. Rothblatt had suggested several times, both inside and outside the courtroom, that the Army was defending itself by trying Lieutenant Duffy.

After the last-minute request by the court to decide if it would reconsider its verdict, Mr. Rothblatt raised anew an allegation that courts-martial were not fair trials because they were subject to influence by higher ranking Army authority.

"It seems to me that when the president [of the court] discussed ramification to the Army, the sinister specter of command influence raised its ugly head.

Mr. Rothblatt was a defense lawyer in the "Green Beret case" last year in which charges of having murdered a Vietnamese civilian were brought against eight members of the United States special

forces. The charges were dropped before a court-martial was convened.

Mr. Rothblatt has also asserted that his defense of Lieutenant Duffy would be relevant to the forth-coming court-martial of American soldiers accused of murdering civilians at Song My in 1968.

The court found Lieutenant Duffy guilty of having conspired to commit murder and of having committed premeditated murder by giving permission to a Sgt. John R. Lanasa to take the Vietnamese prisoner and shoot him.

In his instructions to the court earlier in the day, the military judge, Col. Peter S. Wondolowski, asserted that "the killing of a docile, unarmed and immobile prisoner is not justifiable" and is against the law.

After the court president announced the guilty verdict, Lieutenant Duffy appeared impassive. Nor did his face seem to register emotion when the court said it would consider changing its verdict tomorrow.