

MYLAI TRIAL IS OFF FOR AT LEAST DAY

Defense Is Granted Time to
Round Up Witnesses

By DOUGLAS ROBINSON

Special to The New York Times

FORT HOOD, Tex., Oct. 21—The court martial of S. Sgt. David Mitchell was postponed today until tomorrow at the earliest to allow defense attorneys time to round up witnesses to testify on the alleged mass killing at the South Vietnamese hamlet of Mylai 4.

The trial of Sergeant Mitchell on a charge of assault with intent to murder some 30 South Vietnamese civilians in the hamlet was thrown into disarray yesterday when the trial counsel, or prosecutor, suddenly rested his case after just three witnesses had been heard.

All of the three prosecution witnesses were enlisted men in Sergeant Mitchell's infantry company. One of them testified that he had seen the sergeant fire his rifle into a six-foot-deep ditch where old men, women and children had been pushed. Another said he had seen the sergeant aim his weapon into the ditch and had heard rifle fire.

The Third Witness

The other witness, Charles Sledge of Sardis, Miss., was the only man of the three to testify that he had actually seen the people falling when Sergeant Mitchell and First Lieut. William L. Calley Jr., the platoon commander, opened fire.

Today, Ossie B. Brown, the sergeant's civilian attorney, conferred throughout the day with the military members of the defense team. He declined to reveal who his first witness would be. Yesterday, he said that he had originally planned to subpoena 48 persons.

The attorney also has hinted that he was thinking of calling a former Central Intelligence Agency executive who, he said, had volunteered to testify that "many of the people in Mylai had been marked for political assassination as part of Operation Phoenix."

Mr. Brown refused to identify the former C.I.A. man, but said he was an authority on Operation Phoenix, the code name of the rural pacification program in South Vietnam.

Rebuffed On Subpoenas

He stressed, however, that he had not yet made up his mind whether the witness would be needed.

Last week, Mr. Brown was rebuffed by the court in his effort to issue subpoenas for Richard C. Helms, the director of the C.I.A., and Evans J. Parker, a C.I.A. official whom he described as being connected with Operation Phoenix. At the time, the attorney contended that the Government had "condoned" a program of political assassination while, at the same time, it accused Sergeant Mitchell of participating in the killing of civilians.

The military judge, Col. George R. Robinson, denied the motion on the ground that no evidence had been offered to show that troops in a so-called free-fire zone were authorized to disregard the rules of warfare that protect unarmed civilians.

Among the defense witnesses already here at Fort Hood is Paul Meadlo of Terre Haute, Ind., whose television "confession" about the alleged massacre was a key element in the national uproar a year ago when the Mylai incident came to light. Mr. Meadlo, who is now a civilian, was a member of the infantry company.

ARMY POSTPONES MYLAI PROCEEDING

Attorney's Illness Leads to
Delay of Court-Martial

By DOUGLAS ROBINSON

Special to The New York Times

FORT HOOD, Tex., Oct. 23—The Army has indefinitely postponed the court-martial of S. Sgt. David Mitchell because of the illness of the sergeant's civilian attorney.

A spokesman at Fort Hood said that the attorney, Ossie B. Brown, would not be released from a hospital in Temple until early next week and that "he probably will need some time to get his strength back."

He estimated that the court-martial of Sergeant Mitchell, on a charge of assault with intent to commit the murder of about 30 South Vietnamese civilians at Mylai 4 in the village of Sonmy, would not resume for a week to 10 days.

Mr. Brown was taken to the hospital yesterday after a military member of the defense team found him in a dazed condition in his motel room.

A hospital spokesman said today that the attorney was suffering from "physical exhaustion" and was in satisfactory condition. He also said that Mr. Brown was undergoing tests that would not be completed before next Monday or Tuesday.

The military judge, Col. George R. Robinson, released 12 defense witnesses from their quarters at Fort Hood and allowed them to return to their homes pending a recall.

The judge also released a seven-member panel of officers that has been hearing the case from the barracks where they had been sequestered. But he ordered the officers not to read or listen to any news about the court-martial.

The trial of Sergeant Mitchell was delayed last Tuesday when the Government abruptly announced that it was resting its case. Three witnesses had testified for the prosecution in less than 10 hours of court time when the decision was made to rest the case.

At that time, Colonel Robinson granted a request by the defense for time to organize and assemble witnesses. The trial was to have resumed yesterday.