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Green Beret Deplores Mylai; Is Excused From Trial Panel

By DOUGLAS ROBINSON

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FORT McPHERSON, Ga., Jan. 5 — A former high-ranking Green Beret officer who served in Vietnam was excused from a court-martial panel today after declaring that such acts as the alleged Mylai massacre were "shameful to an Army that I've served for 22 years."

The officer, Col. James A. Lillard of Memphis, now based at Fort Campbell, Ky., told a military judge here that he felt he could not make an impartial decision in a Mylai case because he was convinced that a crime had occurred.

Colonel Lillard made his remarks at the outset of the court-martial of Sgt. Charles E. Hutto of Tallulah, La., the third American soldier to be tried for participating in the alleged killing, of South Vietnamese civilians almost three years ago in the hamlet of Mylai 4 in the Sonmy village complex.

The sergeant, a former farm hand, is accused of assault with intent to murder, a crime punishable by up to 20 years in prison.

Member of Company C

Specifically, Sergeant Hutto is officially charged with carrying out the assault "upon an unknown number of unidentified civilian Vietnamese men, women and children, not less than six, whose names are unknown, by firing his weapon at them."

Although the Army has not yet disclosed the details of the sergeant's alleged crime, it is known the defendant was a member of Company C, First Battalion, 11th Infantry Brigade of the American Division when it entered Mylai on a "search-and-destroy mission" on March 16, 1968.

The sergeant was not a member of the platoon commanded by First Lieut. William L. Calley Jr., who is now standing court-martial at Fort Benning, Ga., on a charge of murdering

102 unarmed civilians. He was, however, under the command of Capt. Ernest L. Medina, the company commander, who is now under investigation for his role in the incident.

The initial court-martial session today at this base just outside Atlanta was given over to the questioning of prospective court members, or jurors. By the end of the day, three officers had been tentatively seated from among the eight men questioned and five had been challenged for cause.

Faces Trial by Officers

Sergeant Hutto has chosen to be tried by a panel of officers rather than by a mixed court of officers and enlisted men or by the judge alone. Under military law, a panel in a general court-martial is made up of at least five members.

Colonel Lillard told the military judge, Col. Kenneth A. Howard, "I understand from accounts that villagers were rounded up and that a regrettable, vicious series of crimes took place. American troops were permitted to get out of control and were in a couple of instances led out of control."

Colonel Lillard said that "such acts can be explained but not excused."

Lieut. Col. David G. Hansord of Clarksville, Tenn., was excused when he said he could not judge the case without prejudice because he felt that "these were soldiers doing their duty."

One of the officers accepted for the panel, Lieut. Col. Donald M. Laffoon of Highland, Ind., said under questioning, "In almost any combat operation, there is unnecessary killing." He also said that he believed soldiers should obey even illegal orders from an officer on the ground that "a soldier is an unreasoning agent of a superior."