

Medina Says Army Will Not Allow Him To Reply to Calley

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By The Associated Press

WASHINGTON, March 1 — Capt. Ernest L. Medina accused the Army today of trying to keep him from challenging the testimony of First Lieut. William L. Calley Jr. that orders to kill civilians at Mylai had come from Captain Medina.

Captain Medina, now stationed at Fort McPherson, Ga., said he "is ready, willing and able" to testify at Lieutenant Calley's court-martial at Fort Benning, Ga., but that the Army had issued orders that he not be permitted to do so.

The order, the captain's attorneys alleged in an action filed today in the United States Court of Military Appeals, was issued in writing to Capt. Aubrey Daniel, the 29-year-old prosecutor in the Calley trial.

Captain Daniel could not be reached. His assistant counsel, Capt. John Partin, refused com-

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ment. It was the first confirmation that Captain Daniel wanted Captain Medina's testimony in the Calley trial.

Lieutenant Calley's trial, in progress intermittently since Nov. 12, is in recess until Wednesday to allow the prosecution time to bring in witnesses for the rebuttal phase.

The lieutenant, who led the first platoon in Captain Medina's Charlie Company, is charged with the premeditated murder of 102 Vietnamese civilians in the hamlet of Mylai 4 on March 16, 1968. Conviction could bring the death penalty.

Captain Medina has been formally accused—but not referred to trial—of being "responsible for the alleged murders of Vietnamese noncombatant persons allegedly committed by members of his company." Gerald Alch, assistant to F. Lee Bailey, Captain Medina's civilian lawyer, said the specifications alleged that the captain killed not fewer than 175 persons.

"Your petitioner Medina is ready, willing and able to testify on behalf of the Army in direct refutation of Lieutenant Calley's testimony," said the petition for a writ of mandamus filed by Mr. Alch.

It said Captain Daniel wanted to call Captain Medina to testify as a rebuttal witness in Lieutenant Calley's trial.

"He has, however, been directed by respondents not to do so," the petition added.

Named as respondents were Secretary of the Army Stanley R. Resor; Maj. Gen. Kenneth J. Hodson, Judge Advocate General of the Army; Col. Wilson Freeman, staff judge advocate of the Third Army, Fort McPherson; Maj. William G. Eckhardt, identified in the petition as the man who will probably prosecute Captain Medina if the case comes to trial; Col. Robert M. Lathrop, staff judge advocate at Fort Benning, and Captain Daniel.

Directive Reported

"There exists a written directive dated on or about 26 Feb. 1971 from Respondent Lathrop to Respondent Daniel reflecting the prohibitive order negating Respondent Daniel's desire to call your petitioner in rebuttal," the petition said.

Captain Medina asked in the petition that the Army be prohibited from referring his case to court-martial, and that Mr. Resor, General Hodson and Colonel Lathrop be prohibited "from interfering with the administration of justice" particularly as it pertains to Captain Medina's available testimony in the Calley court-martial.

Meanwhile, The Columbus (Ga.) Enquirer reported that Gen. William C. Westmoreland, Army Chief of Staff, had recommended demoting Brig. Gen. George H. Young Jr. to colonel for allegedly failing to investigate the Mylai killings.

The newspaper, quoting "reliable sources," said that General Westmoreland, in also urging that an official reprimand be placed in General Young's personnel records, made the recommendation last week to Secretary Resor.

General Young was assistant commander of the Americal Division during the Mylai assault. He is now director of maintenance for the Army Material Command in Washington.

Denies Cover-Up Charge

WASHINGTON, March 1 (UPI) — Col. Oran K. Henderson denied today that he had deliberately tried to cover up the Mylai incident, as the Army has charged. In a statement issued by his lawyer, he said "obstructionist tactics" by some Army officers had hurt his ability to defend himself during pretrial investigations.

Colonel Henderson, 50, was one of 14 officers originally charged with failing to make an adequate investigation into the incident. On Friday, the Army announced that he would be court-martialed but that charges against the last of the 13 other men had been dropped on grounds of insufficient evidence. No date has been set for his trial.