

# Medina Witness Admits Shooting Boy

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FORT McPHERSON, Ga., Sept. 13—A witness at the murder trial of Capt. Ernest L. Medina testified today that it was he and not the captain who killed a small boy during the slaying of civilians in an attack on the South Vietnamese hamlet of Mylai in March, 1968.

Gene Ralph Oliver Jr., a carpet installer from Fort Lauderdale, Fla., said he had decided to disclose this after he had read that Captain Medina was charged with the premeditated murder of the child.

The former rifleman, short, chubby and wearing cowboy boots, also said that he had fired instinctively and without any order from Captain Medina when he saw "a movement by a human form."

Then, Mr. Oliver testified:

"Someone shouted, 'It's only a kid.'

"Captain Medina said: 'God damn it, cease fire.'"

Captain Medina is charged not only with the murder of the boy, but also with the murder of a woman, over-all responsibility for the slaying of at least 100 noncombatants, and with assault on a prisoner.

He has denied shooting the boy, but said he might have shouted an order "Shoot," followed quickly by a "Don't shoot" when he saw that the target was a small boy.

## Calley Is Not Called

The defense attorney, F. Lee Bailey, put Mr. Oliver on the stand after dropping an attempt to call First Lieut. William L. Calley Jr.

On Mr. Bailey's insistence, Lieutenant Calley was brought from Fort Benning, where he is serving 20 years for the murder of 22 civilians at Mylai.

Mr. Bailey said he had information that Lieutenant Calley, who has insisted all along that the slaying of Mylai civilians had been ordered by Captain Medina, had "changed his story."

But as everyone expected, Lieutenant Calley's defense counsel, George W. Latimer, informed the military judge, Col. Kenneth A. Howard that Mr. Calley would exercise his constitutional rights under the Fifth Amendment and respectfully decline to answer ques-

tions that might incriminate him.

Judge Howard then declared that he would not require Lieutenant Calley to answer self-incriminating questions. He told reporters later that under the Uniform Code of Military Justice he could threaten Lieutenant Calley with sanctions only if Mr. Calley "wilfully refused" to testify and showed "contumacious conduct" in court.

## 'No Need to Parade Him'

"There is no need to parade him here," said Mr. Bailey, explaining that all he wanted from Mr. Latimer was a statement that Lieutenant Calley was "unavailable." When he got it, Mr. Bailey then said that he would seek later to introduce by other means the testimony he had hoped to extract from Lieutenant Calley.

At the Calley trial, Mr. Oliver was the only witness who testified that he had heard hostile fire at Mylai, citing, "three AK-47 rounds whistled over my head." But not until today did he disclose his own involvement in the shooting.

"It was something I had to bare," he told Mr. Bailey. "I saw that Captain Medina was charged with the murder. This whole proceeding is completely

unfair. They [the prosecution] know he's innocent just as well as I do."

"I hope we took the little boy off Captain Medina's back," Mr. Bailey commented at the end of the day.

In opening the defense case this morning, Mr. Bailey said he would prove that the Mylai slayings were "triggered" by the shooting of the village water buffalo by Lieutenant Calley's men.

Then, Mr. Bailey narrated, the populace "jeered." It was the first such report of the reaction of the Mylai victims before they were slain.

"They stopped jeering when they were shot," Mr. Bailey said.

Mr. Bailey said he would produce a statement that "Lieutenant Calley was completely responsible."

Mr. Bailey put eight witnesses on the stand. Seven of them praised Captain Medina as an outstanding officer, and the eighth, Dr. Peter G. Bourne, a psychiatrist who has studied the effects of combat strain on soldiers in Vietnam, said that untrained troops, keyed up to expect a hard fight and heavy casualties at Mylai (actually the hamlet was undefended) would be very difficult to control.