

Army Judge's Ruling

Charges Reduced Against Medina

FT. McPHERSON (Ga.) — (AP) — The military judge in Capt. Ernest L. Medina's court martial ruled today that the jury may not convict him of premeditated murder in the deaths of 102 My Lai civilians — but may convict him of no more than involuntary manslaughter in their deaths.

The action by Col. Kenneth Howard left only one premeditated murder charge before the jury—that of a woman Medina is accused of shooting in a rice paddy outside My Lai.

Medina has admitted shooting the woman, but said he did it in self defense — believing she was about to hurl a hand grenade at him. He was on the stand for three hours yesterday.

The judge earlier granted a defense motion for a directed acquittal of murder in the death of a small boy, whose shooting was allegedly ordered by Medina during the My Lai operation.

Under the judge's ruling on the 100 deaths, Medina might also be convicted of the lesser offense of negligent homicide, which carries a maximum one-year sentence. Involuntary manslaughter carries a maximum sentence of three years.

Howard refused to dismiss charges that Medina assaulted a Viet Cong suspect by firing a rifle twice over his head.

The Evidence

Before the judge's action, Medina stood charged with the premeditated murder of the 100 civilians by refusing to intervene after discovering that his troops, including Lt. William L. Calley Jr., were murdering them.

Defense lawyer F. Lee Bailey said afterward at a news conference that the judge took the action because he found the government's charges not substantiated by its evidence.

The judge said that when he instructs the jury next week, he will tell the jurors that in considering the deaths of the 100, the officers must decide which specific

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killings may be linked to Medina.

The judge said the court would be in recess Monday and possibly a day or so longer because of the death in the family of Army prosecutor, Maj. William Eckhardt.

Medina has testified that he had no knowledge at the time of an infantry assault on My Lai that his troops were killing innocent civilians in the South Vietnamese hamlet.

"Reflecting back now, I know that . . . I lost control . . . because I know that now there were a lot of noncombatants killed by my company," Medina told his murder trial jury yesterday.

"But if I had been aware of it that day, I would have stopped it and I would not have let it happen."

It dawned on him only hours afterwards that innocent civilians had died by the score in My Lai before the rifles of his men. Medina said, after a superior asked him to check out such a report.

He was asked what Lt. William L. Calley Jr., one of his platoon leaders at My Lai, told him when he asked Calley how many noncombatants had been killed.

"Well, he hemmed and hawed. He wouldn't give me a direct answer. I said, 'Well, was it 100? Was it more than 100. Was it 50?'"

Calley finally answered, Medina said: "Well, maybe, I guess it was more than 50."

Medina, 35, of Montrose, Colo., gave a three-hour account of his command of Charlie Company during its sweep through My Lai March 16, 1968.

Medina testified that he came upon a woman lying on her side in a rice paddy.

"As I started to turn, I saw movement . . . her eyelids, maybe chest cavity, her hand started to move . . ."

"But I instinctively just reeled around, out of apprehension, and fired twice. And I assumed that I killed her."

Under cross-examination, Medina said he thought the woman had a grenade. But he admitted he did not have her body moved to see whether there was a weapon under it.

In the shooting of the boy, Medina testified he saw the child coming from a hedge row along a trail, caught the movement and raised his rifle.

"I saw that it was a child," he said, "and I—words to the effect that went through my mind or I said—'Get him, get him, stop him, stop him. shoot or don't shoot.'"

Then, Medina said, a shot rang out. The child fell backwards.

"The shot came to my rear, and I spun around, I said, 'goddammit, I want—stop this firing.'" Medina said.

Under cross-examination, Medina said he thought his men were fighting the Viet Cong inside the village while his command group moved along the outskirts of My Lai.

"I had no reason to suspect that it was uncontested or that there were noncombatants in the village," said Medina.

During a briefing before the assault, Medina said, his troops asked him: "Do we shoot women and children?"

"My answer to that was no, use your common sense, you don't shoot women and children. Use your common sense. If the individual is trying to hurt you and has a weapon, then you can shoot him . . ."