

Calley Conviction Upheld By Army's Review Court

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WASHINGTON, Feb. 16—The United States Army Court of Military Review upheld today the murder conviction of First Lieut. William L. Calley Jr. for his role in the My Lai killings and approved his sentence of 20 years' confinement at hard labor.

In announcing the decision, the Army said the review court had found that Lieutenant Calley "personally participated in, and ordered subordinates to participate in, the mass summary execution of unarmed, unresisting men, women and children in the hamlet of My Lai, Republic of Vietnam, on March 16, 1968."

The three-man court, which functions somewhat like an appellate court, also denied Lieutenant Calley's petition for a

new trial, thus presumably bringing to a close the Army's legal proceedings against the key figure in what has come to be known as "the My Lai massacre."

George W. Latimer of Salt Lake City, the 29-year-old lieutenant's civilian lawyer, told reporters the case would be appealed to the United States Court of Military Appeals, a civilian court that serves as the supreme court in military legal proceedings. If unsuccessful there, Mr. Latimer, a former judge on the Court of Military Appeals, said he might try to take the case to the Supreme Court on constitutional grounds.

Meanwhile, however, Mr. Latimer said he thought there

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was a possibility that President Nixon might decide to consider the case now that the military review had been completed.

Immediately after the court-martial conviction, the White House announced that President Nixon, in his role as Commander in Chief, would personally review and make the final determination in the Calley case. The reason given by the White House for this unusual Presidential intervention in a military proceeding was that the case required "more than the technical review" provided by the Uniform Code of Military Justice.

At the same time, the White House said Mr. Nixon would not review the case until Lieutenant Calley had exhausted his appeals or decided on his own motion not to contest a decision handed down by one of the review panels in the appeals process.

Lieutenant Calley, a platoon leader with the Americal Division, was convicted by a court-martial in April, 1971, of the premeditated murder of at least 22 Vietnamese civilians in the My Lai village. Of the more than 24 officers and men implicated by the Army in the event—in which up to 400 South Vietnamese civilians were reportedly slain—only Lieutenant Calley was convicted of criminal charges.

Lieutenant Calley was originally sentenced by the court-martial to life imprisonment, but the sentence was subsequently reduced by the commander of the Third Army at Fort Benning, Ga., to 20 years imprisonment at hard labor. Pending the outcome of his ap-

peals, Lieutenant Calley has been confined under guard to an apartment at Fort Benning.

In upholding the court-martial conviction, the Court of Military Review, according to the Army announcement, found that "Lieutenant Calley's unit entered My Lai in the expectation of encountering enemy forces; however, their operation was unresisted. Despite the absence of any combat in the area, Lieutenant Calley caused villagers to be herded together and killed."

The Army announcement said that the review court had rejected Lieutenant Calley's basic argument on appeal that "he did not intend to commit murder and that he was only obeying orders."

Also rejected, according to the announcement, were other "more technical claims" that he was not subject to military jurisdiction, that the court-martial was improperly constituted, unlawfully controlled by military superiors and influenced by pretrial publicity, and that his case was prejudiced by the refusal of a House armed services subcommittee to release testimony it had received in executive session.

Under military law, the review court is required to weigh the evidence and determine whether the findings and sentence of the court-martial were legally correct, and, if so, whether the sentence was appropriate. The court has the power to set aside any court-martial findings and sentence or to reduce a sentence.

The court was composed of three military judges — Col. William C. Vinet Jr., Col. James D. Clause and Lieut. Col. Wayne G. Alley.