

FEB 19 1975

2 Pull Out Of Calley Appeal Panel

SFChronicle
New Orleans

Two members of a 15-judge panel withdrew yesterday from hearing the Army's appeal of the civilian court decision that threw out William L. Calley's My Lai murder conviction.

The chief judge of the U.S. Court of Appeals here, John R. Brown of Houston withdrew after he was challenged as being biased.

Brown's former law clerk is arguing the Army's appeal to uphold Calley's military conviction in 1971 for the 1969 murder of at least 22 Vietnamese civilians at My Lai.

Judge Thomas Gibbs Gee of Jacksonville, Fla., a retired Air Force officer, withdrew because of his military background.

Regardless of the appeals court's decision, the former Army lieutenant will remain free. The Army has granted him a parole which is to take effect when the court case is settled.

The Army's appeal is the latest in the series of military and civilian court proceedings involving Calley.

In September, 1974, U.S. District Judge J. Robert Elliott of Columbus, Ga., overturned the court-martial conviction. The Army then appealed Elliott's reversal.

The Army's appeal centers on Elliott's ruling that extensive news coverage of My Lai had made a fair trial impossible because now no impartial jurors exist.

The Army argued this legal precedent means that if a crime is the subject of many stories in newspapers, magazines and on television, anyone charged with the crime is immune to trial.

Associated Press
