

# Lt. Calley's

## Conviction Is Upheld

N.Y. Times Service

### Washington

The U.S. Army Court of Military Review yesterday upheld the murder conviction of First Lieutenant 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 found that 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

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like an appellate court, also denied 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."

### APPEAL

The Calley case, however, could still be appealed to the U.S. Court of Military Appeals, a civilian court that serves as the supreme court in military legal proceedings. Alternatively, there is a possibility that the case could go directly to President Nixon, who has announced that he would personally review and decide the Calley case.

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 reportedly were slain — only Calley was convicted of criminal charges.

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

### REJECTION

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

"Obstructive as war is," the review court said in its decision, "war is not an occasion for the unrestrained satisfaction of an individual soldier's proclivity to kill. An officer especially must exert his mind to keep his



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LT. CALLEY  
20-year sentence

emotions in check, so that his judgment is not destroyed by fear, hate or frustration.

"Probably Lieutenant Calley's judgment, perception and stability were lesser in quality than the average lieutenant's, and these deficiencies are mitigating to some extent. However, the deficiency did not even approach the point of depriving him of the power of choice."

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 pre-trial publicity, and that his case was prejudiced by the refusal of a House armed services subcommittee to release testimony it received in executive session.

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

Calley will have 30 days to petition the U.S. Court of Military Appeals for review of his case. The court, consisting of three civilian judges appointed by the President, may grant review if it finds possible errors in law in the earlier proceedings.