

7 Enlisted Men

Army, Navy Drop

The POW Charges

Lack of Evidence Is Cited

Washington

The Army and the Navy dismissed charges yesterday against seven enlisted men accused by an Air Force colonel of misconduct and collaborating with the enemy while they were prisoners of war in North Vietnam.

In announcing their separate but concurring decisions, Army Secretary Howard H. Callaway and Navy Secretary John W. Warner said that the charges were dismissed because of a lack of sufficient evidence.

In addition, the two secretaries cited the mitigating circumstances of the long hardship that the enlisted men had suffered during imprisonment by North Vietnam as well as a Defense Department policy against prosecuting any of the prisoners of war for propaganda statements made while in prison.

The decision was not unexpected and it resolved a moral problem that has been besetting high-ranking Pentagon officials ever since Air Force Colonel Theodore W. Guy filed misconduct charges in late May against five Army and three Marine Corps enlisted men who were confined with him in a North Vietnamese prison camp near Hanoi known as "The Plantation."

OFFICER

As the senior officer in the prison camp, Guy "accused the enlisted men of various

acts of misconduct including failure to adhere to the post-Korean war code of conduct drafted for prisoners of war, undermining discipline and authority in the prison camp, disobeying orders of an officer, cooperating with the enemy to obtain favorable treatment and building model airplanes that could

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be used as targets by the North Vietnamese guards.

Defense Department officials who had laid down a general policy of honor-and-forgive for the returning prisoners of war initially tried to persuade Guy not to bring the charges.

When Guy insisted upon bringing the charges, the Army and Navy were obligated under the uniform code of military justice to review the charges to determine whether a court-martial was warranted.

The responsibility for the review was assumed by the secretaries of the Army and Navy, who in turn were supported in their decisions by the military leaders of the two services — General Creighton W. Abrams, the Army chief of staff, and General Robert E. Cushman Jr., Commandant of the Marine Corps.

REVIEW

The review and the subsequent dismissal of the charges, however, was not completed before one of the enlisted men accused by Guy had committed suicide. Marine Sargeant Abel Larry Kavanaugh shot himself last Wednesday in his father-in-law's suburban Denver home.

Kavanaugh's 22-year-old widow, pregnant with their second child, has blamed Guy and the Pentagon for her husband's death.

According to officials here, Kavanaugh, whose enlistment had expired and who was anxious to leave the service, had become depressed after he was informed he would have to remain in the Marines until the review of the charges was completed. What Kavanaugh did not know, according to these officials, was that early last week Cushman had told aides that "I am not about to have any charges brought against any of my Marines."

At Kavanaugh's funeral Monday, the pallbearers included six of the men accused by Guy. They were Staff Sergeant Robert P. Chenoweth of Portland, Ore., Staff Sergeant James A. Daly Jr. of Brooklyn, Staff Sergeant King D. Rayford Jr. of Chicago and Staff Sergeant John A. Young of Grayskale, Ill., all of the Army. Staff Sergeant Alfonso R. Rate of Santa Rosa, Calif. and Private Frederick L. Elbert of Brentwood, N.Y., of the Marine Corps were also pallbearers. Not present was specialist Fourth Class Michael P. Branch of Newport, Ky.

The Navy said that formal dismissal of the charges against Kavanaugh was not required since "they became a nullity" upon his death.

FACTORS

Among the "mitigating factors" that entered into his decision to dismiss the charges against the two Marines, Warner said, was "the fact that each of the Marine Sargeant Abel Larry turnees had suffered a long period of confinement during which they each suffered severe deprivations and maltreatment at the hands of their captors."

Similarly, in announcing the decisions to drop the charges against the five Army men, Callaway said,

"We must not overlook the good behavior of these men during the two to three years each spent under brutal prison conditions in South Vietnam before they were moved to the north — the lack of food and medical care, the sub-primitive living conditions, and the physical torture. They had a very hard time, and they behaved admirably during this period."

While no administrative action will be taken against the five army men, Callaway said that they would not be permitted to re-enlist because they failed to meet "the current qualitative standards for the volunteer army."

Still pending are similar charges against two former POW-officers, Navy Captain Walter E. Wilber of Columbia Crossroads, Pa., and



AP Wirephoto

SANDRA KAVANAUGH AND HER DOG MISSY
She blamed Pentagon for her husband's suicide

Marine Lt. Colonel Edison Wainright Miller of Tustin, Calif. Rear Admiral James B.M. Stockdale, the second highest ranking POW, accused the two fighter pilots

of, among other things, mutiny and aiding the enemy, charges punishable by death.

Those accusations are still under investigation.

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