

The second session of the Article 32 Investigation conducted by LTC Moseley reference charges against SSG Kenneth Hodges convened at 1305 hours, 9 April 1970, Building 41, Fort McPherson, Georgia 30330. Present for this session were:

- a. Govts Representative - CPT Robert Demetz
- b. Defense Counsel - CPT Robert K. Raulerson
- c. Accused - SSG Kenneth Hodges
- d. Clerical Assistant - SP4 Gary E. France

The Article 32 Investigating Officer opened the session by reminding the accused of his rights under Article 31, UCMJ.

Then, along with the Government's Representative and the Defense Counsel, they reviewed the minutes of the last session of 31 March 1970. The Government's Representative brought up the aspect of civilian counsel to represent the accused. The Defense Counsel stated that no civilian counsel has yet been obtained, and the accused agreed to proceed without the aid of civilian counsel. The Government's Representative asked of the Defense Counsel if all motions made at the previous session had been attended to, and the Defense Counsel was satisfied that they had. In addition, the Defense Counsel wishes to call the two Trevinos, Roy and Fernando, which he will confirm with the Investigating Officer in the immediate future.

Specialist 4 Leonard Gonzalez was then called as the first witness, was sworn, and testified in substance as follows. In the questions posed by the Government's Representative, the witness stated that he knew the accused, SSG Hodges, from the 2d Platoon of C/1/20 as a squad leader during the operation into the Pinkville area. He saw the accused at My Lai (5) and

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was with him when he left the hamlet of My Lai (4). The witness saw SSG Hodges at My Lai (5) from a distance of approximately ten feet coming out of a hootch while pulling his pants up over his waist. Also both Trevinos were in the hootch. He did not see the Vietnamese girl in or near this hootch, but did see a girl in this vicinity upon returning from a search through the village. From her appearance, this girl had obviously been involved in sexual intercourse, clothed only in pajama tops and nude from the waist down. Moreover, the witness stated that he didn't know how near to the aforementioned hootch he had seen this girl, who was walking with an American soldier. In the Defense Counsel's questions, the fact arose that from the time the witness saw the accused leaving the hootch until they returned together to join the rest of the company, over two hours of time had elapsed. The witness didn't see the accused anymore in Vietnam because he was wounded and evacuated shortly thereafter. He did, however, classify the accused as a good soldier and good person to talk to. This girl who had been walking with another soldier seemed apparently to have been enjoying herself in that she had not been forced into walking along with him, nor did she seem to mind being half nude. The witness also knew Bunning well, perhaps even better than the accused, and they were close, but Bunning wasn't in My Lai (5) at that time. Captain Demetz asked the witness if the accused had said anything as he was leaving the hootch and pulling up his pants, but the accused had not said anything. Nevertheless, the witness saw a line similar to a chow line waiting outside the hootch and assumed it was a rape, but the Defense Counsel objected, stating it might have just been sexual intercourse, not necessarily rape. The witness was excused, subject to recall.