

IN THE FIFTH JUDICIAL CIRCUIT
Fort Benning, Georgia 31905

UNITED STATES

v.

WILLIAM L. CALLEY, JR.
FIRST LIEUTENANT
UNITED STATES ARMY

Request for Order Requiring
Trial Counsel to Produce
Stenographic Disks, Tapes
or Tape Recordings of My
Lai 4 Inspector General's
Investigation Report

Comes now accused through counsel and requests Your Honor to direct trial counsel to provide defense with all existing stenographic disks, tapes, shorthand notes or tape recordings from which the purported verbatim three volume Inspector General's Report of the My Lai Incident was prepared. It is submitted that defense has a right to compare the original stenographic notations, from whatever source derived, human or mechanical, with the claimed accurate Inspector General Report transcription (Paragraph 115c, MCM, 1969 (Rev.); see also, United States v. Walbert, 14 USCMA 34, 33 CMR 246; United States v. Roedel, 9 USCMA 259, 26 CMR 39; United States v. Algranati, 239 F. Supp 116 (1965)).

I

Trial counsel was provided with a written request for said matter on 9 March 1969 (Incl 1); and, trial counsel orally refused to produce voluntarily such matter. The Inspector General's Report includes purported verbatim statements of prospective government witnesses and an interview of the accused. Defense submits that a showing of transcript inconsistency is not a prerequisite to the production of the requested matter (See Campbell v. United States, 373 U.S. 487, 10 Fed 2d 501, n. 13 at 509). Defense respectfully urges favorable ruling at this time to avoid unnecessary trial delay - on a witness by witness Jencks Act basis. As practiced in United States v. Algranati, supra at 108:

"A defendant has a right to compare the original notes with the claimed accurate transcription. It will save trial time to permit their inspection now." (Emphasis Added.)

See also, United States v. Gleason, 265 F. Supp 880 at 887 (1967) (Dictum) which acknowledges that certain kinds of evidence should be provided a defendant before trial in order to insure effective case preparation and presentation.

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Request For Order Requiring

II

Copies of the purported verbatim transcripts currently are in possession of defense. Your Honor may inspect them if desired prior to ruling on this request. Note: The transcript contains numerous notations that certain testimony "was taken stenographically and transcribed...." (See e.g., Vol. II. IG(ROI My Lai), page 405.).

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