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FILED 18 FEB 70
W. L. C.

UNITED STATES ARMY JUDICIARY
In the V Judicial Circuit
Fort Benning, Georgia 31905

UNITED STATES)

v)

MOTION FOR DISCOVERY

WILLIAM L. CALLEY, JR)
First Lieutenant)
US Army)

Comes now the accused, First Lieutenant William L. Calley, Junior,
and requests the following:

I

A written findings specifically designating that portion of defense's
prior discovery motion which was denied, together with legal citation ?
supporting said court ruling. It is requested such findings specify
whether your ruling included denial of the request for CIA documents
including memoranda of the specific conversation listed which occurred
on 16 March 1968; and, whether your ruling included denial of the
request for Embassy and State Department records to include all
documents, writings, and memoranda, in the possession of a named Foreign
Service Officer, regarding My Lai 4 or Lieutenant Calley.

II

Pending determination of the scope of voluntary discovery to be
authorized defense regarding criminal investigation (including all
matters and CID notes in #69-CID011-00068) and Peers Committee files,
requests the following interim discovery:

(1) Copies of all officer efficiency reports prepared at Fort
Benning, Georgia, during the period of 15 August 1969 through 9
February 1970 for Colonel (Ret) Lon D. Maxlowe, LTC Henry E. Vincent,
and Captain William R. Hill. It is expected that the reports may

Motion For Discovery
18 Feb '70

contain remarks which support defense's contention of unlawful command influence. In the alternative, request you personally view these documents; and, if you determine they contain no information discoverable under any recognized theory of law, append them to the record of trial as an appellate exhibit.

(2) Two prints of each photograph in the possession of the United States Government, which purports to represent victims of the My Lai 4 incident or any purported representation of soldiers or equipment engaged in Task Force Barker's "Pinkville" operation or any photograph otherwise determined exculpatory, upon your personal inspection, within the meaning of Brady v. Maryland, 373 U.S. 83. These photographs, in part, will be used by the defense during pretrial interviews of witnesses. This request includes photographs of the class specifically described above in the United States Government's knowing possession from whatever source derived. Your attention is invited to certain appellate exhibits of Life, Time, and Newsweek Magazines for further description of the class of photographs subject of this request.

(3) Operation Order (OPORD) 1-68 (C), dated 041200 February 1968, in the possession of the Inspector General, Americal Division, Chu Lai, Republic of Vietnam. An oral offer of proof regarding the classified content of this order will be provided on request.

(4) 11th Brigade Regulation 525-1, dated 30 January 1968, Subject: Rules of Engagement, defining the term free fire zone somewhat differently than subsequent Americal Division regulations.

(5) DA Message SACLL, dated 032042Z December 69, Subject: Briefing of Congressional and Other Visitors on the My Lai Incident (FOUO), dated 121439Z December 69 (RUEADWE 2354 EFTO). See record of trial regarding offer of proof.

(6) Request you personally inspect all documents and writings pertaining to the My Lai incident of Lieutenant Calley in the possession of Colonel George W. Everett, Deputy Secretary of the General Staff, Department of the Army, Point of Contact for My Lai guidance questions, and provide defense with all exculpatory matter within the meaning of Brady v Maryland, 373 U.S. 83, or such matter as is otherwise subject to discovery, and that you attach all additional matter to the record of trial as an appellate exhibit.

(7) Request you personally inspect all documents or writings, pertaining to the My Lai 4 incident ^{of} ~~to~~ Lieutenant Calley, in the possession of Colonel Dalton O. Carpenter, Junior, Chief, Investigation Division, Office of the Inspector General, Headquarters, MACV, Saigon, Republic of Vietnam, point of contact in Vietnam for guidance and questions concerning the My Lai incident, and provide defense with all exculpatory matter within the meaning of Brady v Maryland, 373 U.S. 83, or such matter as otherwise is proper subject of discovery, and that you attach all additional matter to the record of trial as an appellate exhibit.

III

The above request in no manner constitutes a waiver of prior discovery requests, but is tendered in an attempt to comply with the court's demand for specificity. Further discovery motions may be filed depending on the voluntary subsequent release of information made by the United States Government. Your honor is reminded that the degree of specificity required to support a discovery motion is legally unsettled. It is suggested as a matter of first impression that the nature of discovery requested and the ability of the United States Government to secrete exculpatory matters under the guise of classified documentation should be a factor subject to judicial consideration. This is a capital case. Certainly no harm is done to the United States Government by your

personal inspection of the requested writings and attachment of any irrelevant matter to the trial record for appellate review. Accused is entitled to a fair trial and this includes access to all exculpatory matter as outlined in Brady v Maryland, supra. You are advised that defense is unaware of any equally effective means of obtaining discovery other than reliance on voluntary disclosure by its adversary - - the United States Government.

GEORGE W. LATIMER
Chief Counsel for
Accused

Kenneth A. Raby
KENNETH A. RABY
Major, JACC
Military Defense
Counsel

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Counsel for Accused