

UNITED STATES

v.

CHARLES E. HUTTO
SERGEANT
UNITED STATES ARMY

)
)
) MOTION TO DISMISS RE:
) DISCRIMINATORY PROSECUTION
)
)
)

Comes now the accused and moves this Court-Martial to dismiss all the charges and specifications alleged against him for the following reasons:

I

To subject accused to court-martial for offenses arising out of the combat assault mission on the village of My Lai (4) in March of 1968 will violate the accused's right to due process and equal protection of the law in that the prosecution of the accused by the United States constitutes an intentional, purposeful, discriminatory and unequal application of the law.

II

The United States Government has pursued, ordered and condoned a policy of destruction of persons in South Vietnam who are adherents to a political ideology which is abhorrent to the Constitution, Laws and Political Philosophy of the United States, without concern for the means of their destruction. To accomplish this objective, the United States Government has overtly as well as subtly trained and ordered its forces, both American and Vietnamese, to accomplish the summary execution, without regard to civilian status, age, sex or state of apprehension, of such members of the populace of the Republic of South Vietnam, as was unilaterally determined to be in the interest of the United States. Such orders have originated solely within the executive branch of the United States Government and its agencies; to wit, the CIA and the U.S. Army, without any measure of judicial determination. The United States Army received the accused and others similarly situated either by enlistment or involuntary induction, and assigned them to the infantry and training camps where it taught them to use rifles, machine guns and mechanized crew-served weapons for the purpose of

killing people, and shipped the soldiers to the Republic of South Vietnam and ordered them into strongholds of Viet Cong sympathizers and supporters with orders to kill, search and destroy. The members of the accused's company were commended for the success of the operation at My Lai (4) until some twelve months later when the operation was exposed to public scrutiny. After this exposure, the United States Government began an investigation which lead to charges being preferred against the accused and several other individuals in an effort to shield the agents and officers of the United States and to conceal for political ends the patterns and policy of war tactics employed by the U.S. Government.

III

To prosecute the accused and other individuals who were acting as agents of the United States Government at the time of their alleged misconduct, while officially condoning and sanctioning such conduct by other agents of the Government offends against the concepts of a fair and just trial and the rights to due process and equal protection guaranteed by the Constitution.

IV

Evidence in support of this motion will be furnished to the Court at a hearing on the motion.

Respectfully submitted,

JWL