

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF GEORGIA

Civil Action, File No. \_\_\_\_\_

ROBERT W. T'SOUVAS, SPECIALIST FOUR )  
U.S. ARMY )  
Plaintiff )  
v. ) PLAINTIFF'S FIRST AMENDMENT  
ALBERT O. CONNOR, LT GENERAL, )  
U. S. ARMY, AS COMMANDING )  
GENERAL, THIRD UNITED STATES )  
ARMY )  
Defendant )

Comes now ROBERT W. T'SOUVAS, Plaintiff by and through his attorneys and pursuant to Rule 15(a), F.R.C.P., does amend his Complaint by adding the following:

1.

A new paragraph 2(a) as follows:

The actions of Defendant herein complained of would, if allowed to proceed, damage Plaintiff in an amount in excess of ten thousand dollars (\$10,000), exclusive of interest and costs.

2.

A new sixteenth ground under paragraph 9 as follows:

In that the United States Government has pursued, ordered, and condoned a policy of destruction of persons in Southeast Asia 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; and in that the United States has overtly as well as subtly trained and ordered its forces, both Vietnamese and American, to accomplish the summary execution, without regard to civilian status, age, or 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 interests of the United States; and in that such orders have originated solely within the Executive Branch of the United States Government and its agencies, to wit, the Central Intelligence Agency and the United States Army, without any measure of judicial determination; and in that the Army received Plaintiff 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 overseas to The Republic of South Vietnam and ordered them into strongholds of Viet Cong sympathizers and supporters with orders to kill, search and destroy; and in that the operation at My Lai (4) was commended for its success until some twelve months later when it was exposed to public scrutiny; and in that the purpose of the charges and specifications in the criminal case against Plaintiff is to use Plaintiff and others similarly situated to shield United States agents and officers and to conceal for political ends the patterns and policy of war tactics used by the United States, the attempted prosecution of Plaintiff by the United States constitutes an intentional, purposeful, discriminatory, and unequal application of the laws and a bad faith prosecution.

3.

A new seventeenth ground under paragraph 9 as follows:

In that the Commanding General of Army troops in the Republic of South Vietnam at the time of the incident at My Lai (4) was Chief of Staff of the Army at the time the incident was called to the attention of civilian officials and the public, and still holds that position; and he and other senior officers on duty at that time and in any way connected in the chain of command, have a direct, critical, and vested interest in the outcome of this litigation, and every participant in this prosecution up to and including the Court of Military Review will be appointed by officers under his command and control; and to initiate and maintain this prosecution, the Army, through officers subordinate to the Chief of Staff, has selected personnel to interrogate, investigate, and build a case for the prosecution, and it has designated the officer to conduct the Article 32 Investigation, 10 USC 832, and to recommend the action to be taken; and it has selected the officer to review the Article 32 Investigation and its recommendations; and it has used personnel of the United States Army Criminal Investigation Division and members of the Judge Advocate General's Corps to procure further evidence to strengthen the case for the prosecution when the Inspector General's investigation was deemed insufficient. Furthermore, the Army, through the Chief of Staff and his subordinates vested with a personal

interest in this case, will detail the Judge to hear the case and the members of the Court-Martial to decide facts and impose the sentence.

It will designate the Convening Authority to review the record of trial of the Court-Martial and it will appoint the officers to the Court of Military Review, which is the first appellate agency in the appellate process.

The total picture shows that the Army aided and abetted the Commission of the alleged crimes, but that it has been a Grand Jury hostile to the Plaintiff, and it will be the prosecutor, Judge, trier of fact and decider of the life and liberty of this Plaintiff who was ordered to carry out its political and military missions. These proceedings will, then, be prejudiced and unfair.

To allow them to continue will permit the carrying out of a trial and appeal proceeding which collectively will be no more than a hollow ritual, unfair and unjust to Plaintiff, with a concomitant deprivation of due process of law and other Constitutional rights and privileges granted to other citizens of the United States of America. Under circumstances such as those surrounding this particular case, the applicable provisions of the Uniform Code of Military Justice are void as conflicting with the Constitution of the United States.

4.

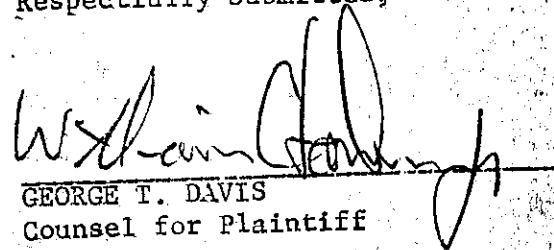
A new subparagraph (f) of the Prayer as follows:

That the Defendant, his agents, subordinates, and members of his command, be permanently enjoined from prosecuting the Plaintiff by a general court-martial, and that Plaintiff be discharged; or, in the alternative, that the District Court of three judges order the charges transferred to the District Court for the Northern District of Georgia, to be tried by a jury as provided by law; or, in the alternative, that the District Court of three judges grant an injunction until such time as the prejudicial publicity in this case shall have subsided and lessened in effect and until such time as the Commander in Chief of the Army and those subordinates having a personal and vested interest in this case shall be no longer in office; or, as another alternative, that the trial by the United States Military be conducted through a Military Commission, the power for which is available to the United States Government, which Commission shall be required to offer Plaintiff the Constitutional rights and privileges presently unavailable in a United States Army Court-Martial.

A new subparagraph (g) of the Prayer as follows:

That Plaintiff have such other and further relief as equity and justice shall require to include the alternative hearing of this matter by a single judge District Court based on that Court's equity jurisdiction to enjoin bad faith prosecutions that cause irreparable harm in violation of the Constitution of the United States.

Respectfully Submitted,



George T. Davis  
Counsel for Plaintiff

Counsel:

George T. Davis  
745 Market Street  
San Francisco, California 94103

Captain William C. Lanham  
Office of the Staff Judge Advocate  
Fort McPherson, Georgia 30330

Captain Richard S. Derbes  
Office of the Staff Judge Advocate  
Fort McPherson, Georgia 30330