

United States, plaintiff)

v.)

Specialist Four William F. Doherty)
, US Army)

Staff Sergeant Kenneth L. Hodges)
, US Army)

Private Max D. Hutson)
, US Army)

Sergeant Charles E. Hutto)
, US Army)

Captain Eugene M. Kotouc)
, US Army)

Captain Ernest L. Medina)
, US Army)

Corporal Kenneth Schiel)
, US Army)

Private Gerald A. Smith)
, US Army)

Sergeant Esequiel Torres)
, US Army)

Specialist Four Robert W. T'Souvas)
, US Army)

Captain Thomas K. Willingham)
, US Army)

defendants)

Headquarters Third United
States Army, Fort McPherson,
Georgia 30330

PROTECTIVE ORDER

Charges under the Uniform Code of Military Justice recently have been preferred against members of this command as a result of incidents alleged to have occurred in the vicinity of Son My Village, Quang Ngai Province, Republic of Vietnam, during March of 1968.

Headquarters, Department of the Army, has just completed an investigation, into the manner in which responsible authorities discharged their duties after these incidents at Son My Village were alleged to have occurred.

A voluminous record is being prepared, incorporating testimony of numerous witnesses, exhibits and documentary evidence.

Injury to the legal rights of all parties affected by the pending charges may occur if the substance of the record of said investigation, which has not previously been released by the Department of the Army, is disclosed to the public prior to judicial disposition of the charges now pending.

Article 30(b) of the Uniform Code of Military Justice, 10 U.S.C. Section 830(b), strictly charges and requires that, upon preferring of charges, proper military authorities shall take "immediate steps" to insure that disposition of such charges is consonant with "the interest of justice."

NOW, THEREFORE, I, Albert O. Connor, Commanding General, Third United States Army, authorized to convene general courts-martial by Article 22(a)(3), Uniform Code of Military Justice, 10 U.S.C. Section 822(a)(3), and required to exercise supervisory authority over the general administration of military justice within this command by paragraph 94, Manual for Courts-Martial, United States, 1969 (Rev. ed.), E.O. 11476, 19 June 1969, do hereby enter the following ORDER for the information and compliance of all concerned:

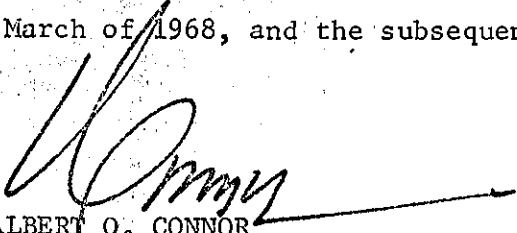
1. No person granted access to the record of the investigation conducted at Headquarters, Department of the Army, by Lieutenant General William R. Peers in connection with the charges now pending against members of this

command, will release or otherwise publicly disclose the text or substance of all or any part of the said record, which has not previously been released by the Department of the Army. This does not bar necessary disclosures to and discussion among defendants, their counsel, and other appointed officials required in the course of their duties, or during judicial proceeding, to have knowledge of the investigative record.

2. No person appointed or retained as trial or defense counsel in connection with charges against members of this command will be granted access to the record of the Peers investigation unless and until he shall have indicated his knowledge of this ORDER and his intention to comply therewith, by execution of a statement in the form appended to this ORDER.

3. The custodian of the record of the Peers investigation shall cause to be served upon each counsel requesting access to the record of the Peers investigation a copy of this ORDER, Army Regulation 345-60, and Chapter Four of Army Regulation 27-10, and before granting access the custodian shall obtain the signed statement described above.

4. Unless specifically rescinded or amended by a military judge, this ORDER shall remain in force until after trial, if any, including appellate processes, or other judicial disposition, of all charges resulting from the incidents alleged to have occurred in the vicinity of Son My Village, Quang Ngai Province, Republic of Vietnam, in March of 1968, and the subsequent investigation thereof.


ALBERT O. CONNOR
Lieutenant General, USA

Done at Fort McPherson, Georgia, this 27th day of March, 1970.

APPENDIX

FORM OF STATEMENT OF COUNSEL

Comes now the undersigned, as counsel for SGT ESEQUIEL TORRES, CPT
EUGENE KOTOUK, SP4 WILLIAM H. DOHERTY ~~(the United States)~~ (the accused,
HQSTRPCMD, FT MCPHERSON, GA, who states as follows:
/name, grade & organization/)

I have this day been served with a copy each of Army Regulation 345-60,
Chapter Four of Army Regulation 27-10, and the Protective Order entered
27 MARCH 70 by the Commanding General, Third United States
(date)

Army.

I understand that public disclosure of the contents of the Peers investi-
gation could prejudice the rights to a fair trial of those charged as a
result of the incidents alleged to have occurred in the vicinity of Son
My Village, Quang Ngai Province, Republic of Vietnam in March of 1968.

I further understand that I am being granted access to the record of the Peers investigation solely in my capacity as trial or defense counsel, and only on condition that I agree in writing to comply with the terms of the Protective Order served upon me.

I hereby undertake to comply with said Order.

Norman G. Cooper
CPT, JAGC (signature)

SJA, HQS TUSA, FT McPHERSON, GA.
(address) (grade & organization)

2 APRIL 70
(date)