

28 July 1970

LTC Edward Atkins
922 Dupont Building
Miami, Florida 33131

Dear Col. Atkins:

I have just completed an hour and one-half conversation with Col. Ingle. He was most candid with me on his opinion of the Schiel investigation. I will try to relate to you what he said and his thoughts of the case. Initially, I asked him what his reaction was to the case. To this he replied, "One of complete repulsion that such an incident happened or could happen." I then asked what basis he made his decision to recommend trial. He stated "Circumstances". First, he said that it was a mistake to put Schiel on the stand. He completely disregarded Schiel's testimony as being a false denial. He said Schiel was obviously "there" due to Bunning's statement. Hutto's and Hutson's. He said in his mind it was a technicality as to whether Schiel actually pulled the trigger. He did say that the question of premeditation was paramount. His reasoning that there was premeditation was based upon the statement of Ken's before the incident, his two voluntary statements to the CID, that such orders were given and that he did, in fact, understand them to be to kill everything including women and children. Ingle reasoned that Schiel knew what would be encountered that morning, but was hoping that there would not be women and children. Ingle was impressed with Bunning's statement and felt that he had a good understanding of what probably took place. He reasoned that Ken was put into a situation of not really wanting to kill any non-combatants but when faced with the real question he did go ahead due to his leadership position in the company. Out of that analysis, he decided there was premeditation.

I was, needless to say, quite shocked when he said that he felt Ken's statement on his own behalf was a false denial. He felt that to an experienced combat leader as Ken supposedly was, there would be no chance of the squads mixing and possibly getting into a cross-fire position as Ken stated. He also believed that combat experiences are never forgotten and that Ken's statement that he didn't remember who was there was not true. Of course, I was thinking all along that Bunning had also gotten into a cross-fire position and he also stated he couldn't remember who else was there with Schiel. Basically, what he said was that Ken's

restatement of the facts had him to believe that his denial of the actual shooting was non-credible under the circumstances.

Ingle was sympathetic to Ken but said he felt there was no other choice but to recommend trial. He felt that his mind was made up by all the evidence that he had available to him. However, he did say that without the Pear's investigation in complete form available to him, and all the statements of the other accused, such as Hutto and Hutson, that he could have decided the other way. He said that with Bunning's statement alone and with proper cross-examination, the Government's case could be very weak -- at least not beyond a reasonable doubt.

In concluding, I guess we can say that the recitation of facts by Bunning and explained by Schiel will be our most important obstacle to overcome -- at least in Ingle's mind, if we decided to follow the same plan at trial.

On another note, Rich and I have been working on the question of break in service as affecting Ken's subjection to Court-Martial Jurisdiction. The cases are split but I feel we have a strong and somewhat unique argument to be made in both our Federal petition and in a motion to dismiss at the Article 39A session here. I also have written request for TDY orders to see all persons in the 2nd squad under Ken that day. Also, it is time for us to move towards going to Vietnam. When would you be able to go? We finally had some affirmative action on the defense fund and it looks like we may have some luck.

Look forward to seeing you again.