

SUBJECT: Request for Reconsideration of Denial of Counsel
(United States v. Corporal Kenneth Schiel)

The Judge Advocate General
Headquarters, Department of the Army
Washington, D.C. 20310

After being informed that I had been charged with a violation of Article 118 of the Uniform Code of Military Justice, I requested that Captain Richard S. Arkow assigned to the Military Affairs Division of your office be my individual military counsel. On 9 April 1970 my request was denied.

In view of the seriousness of the offense charged, the many complex legal issues presented, the large number of witnesses and potential witnesses involved, the vast amount of written matter to be carefully considered, and the national attention given to my case, I feel that in the interests of justice the counsel of my choice should be made available.

Captain Arkow was detailed to represent me when I appeared before the so-called "Peers' Inquiry" and has counselled and advised me until military counsel was detailed to represent me. The attached affidavit of Captain Arkow was prepared at the request of my detailed defense counsel. I have the utmost confidence in Captain Arkow's ability to represent me if my case is referred to trial by court-martial and I sincerely desire that he represent me in any legal proceedings arising out of these charges.

I do not believe that I have been treated in an equitable and professional manner by the Army in this respect. I have not been afforded the representation that would be appropriate in a case of this nature. First, Captain Arkow was appointed to counsel and advise me. Then at Fort Bragg I sought the assistance of another Judge Advocate Officer, and then I was transferred to Fort McPherson and still another attorney was detailed to represent me. Certainly, continuous representation by one attorney

who has become familiar with the facts of my case is the only just way of treating an individual charged with the commission of a capital crime, premeditated murder.

Although I do not doubt that Captain Arkow performs a vital and valuable service to the Army in his present position, he can nonetheless still perform these duties, if necessary, and continue to represent me with the assistance of my detailed defense counsel, Captain James W. Lane, who is assigned to the Office of The Staff Judge Advocate, Third U.S. Army. I would like to point out that Captain Lane, in addition to representing me, has been detailed to represent two other men accused of committing crimes arising out of the alleged incident at My Lai, and is required to perform his regular duties at Fort McPherson, while the prosecution has an entire staff of attorneys preparing for the prosecution of these cases.

Several of the Officers charged with offenses arising out of the events that allegedly took place at My Lai in March, 1968, have had their requested counsel made available in spite of the fact that the requested counsel have been at distant installations and performing important duties in their respective commands. In addition, two lieutenant colonels assigned to your office have been made available to represent high ranking officers of the Americal Division.

I have been in the Army over two years. During this service I have been awarded the Silver Star, the Bronze Star with V Device and the Purple Heart. In view of the above, I request that you reconsider your determination that Captain Arkow is not reasonably available to represent me.

BERNETH SCHIEL
Corporal, U.S. Army