

Prosecutor Daniel's Rebuttal Closing Argument

If it please the court, counsel for the accused, Mr. President, gentlemen of the court:

It's been a long day, gentlemen. It's been a long trial and my job, truly, is just about over. Again, I thank you for the attention which you have given me throughout this trial. I trust that I will receive your continued attention for the several moments that remain at the end of this case. I am not going to take the time now to reply to every one of Mr. Latimer's arguments. I won't do that. I think the purpose of some was apparent. I am going to take the time to discuss with you again those factual matters which he raised, and those legal matters which he raised, which I feel do need to be responded to. . . .

Mr. Latimer said, "Well, the boys were a little bit aggressive that day. They used bad judgment a couple of times. They used bad judgment." Can you visualize in your mind ---we have not been able to create what the people who were on the other end of those weapons felt at the time when they were being shot and placed in that ditch like so many cattle. They tell you that the accused was not the only man responsible. Well, I ask you, did anyone else do any more that day than he did? I submit, gentlemen, that the evidence shows that he did not receive an order in this case. They tell you to disregard the briefings of Task Force Barker, that those have no weight. Do you believe that that task force would have given an order to go in and round up all of those people and shoot them summarily, infants who couldn't even walk? Do you believe that Captain Medina would have given that order and that the accused had received the order, did he show any remorse? Did he mention it to anyone; no he didn't. He said, "I'm the boss and I'm running the show."

If the order was given, gentlemen, he joined in and he is as much to blame as anyone else who would have given that order. And under the law, a reasonable man would not have obeyed that order and could not have obeyed that order without assuming full legal responsibility for his action. What can justify, gentlemen, the shooting in cold blood of an infant or child or any human being who's unresisting and is offering you no resistance? I say to you that your choice is not Captain Medina, or anyone else, and the accused. Your choice is the facts in this case and the law. And the facts in this case prove beyond any shadow of a doubt that the accused is to blame, that he should be held criminally responsible. There can be no doubt about that. What happened in My Lai is the truth. You can't hide it. You can't cover it up. It exists. You have taken a solemn oath that you will, with complete impartiality, apply the evidence that has been presented to you in this case to the law which Judge Kennedy will give you.

You have sworn, each of you, that you will apply this law regardless of what your personal feelings might be about it. The government has carried its burden and we have established all of the elements of every offense beyond any reasonable doubt. We have proven that the accused gathered up and summarily executed those unarmed, unresisting men, women, and children, and babies in the village of My Lai on 16 March 1968. We knew we had that burden to carry when we came to this court, and we have carried it. There is no question about the fact that he killed them with premeditation. Under the law of this country and the Uniform Code of Military justice and the laws regulating warfare, all human beings are entitled to be treated humanely. The defense argument would ask you to throw away all of those rules. They would ask you to make us no better than our enemy. They would ask you to legalize murder. How could we as a nation call for humane treatment of our own while condoning inhumane treatment to them? These individuals, these human beings, they are

entitled to this under our law, regardless of their race or nationality or their political affiliation. The fact that the accused was an American and these were Vietnamese is irrelevant. They were human beings. It's not just unlawful under our law to take the life of another American. We cannot justify the summary execution of any human being under the law of this country. These people may have been VC. They may have been supporters or sympathizers of the VC. They may have been Vietnamese people who just happened to have been in the wrong place at the wrong time. They may have been people who were under the control of the Vietcong, because they themselves were captives of this country's own enemy. But I ask you, gentlemen, who stopped to ask them? Were they ever asked? Did the accused make any attempt to make that determination? And I ask you, what choice did the children have about the fact that they were in the village that day? Or what about the infants whose only possible crime was the fact that they were born to parents of a village of My Lai?

The accused has been given a fair trial before his guilt could be determined. The people of My Lai were entitled to the same trial to determine if they had committed an offense against this nation, a trial which they never received. Would the evidence presented against those people reveal that they had been guilty of any offense? Would any tribunal in this world have found one of those children guilty of an offense and sentenced him to die? Would the evidence have proven any infant guilty of any offense which could justify his execution? The children, the infants, and the people of My Lai ---the children and the infants would never be tried and nothing under the law could justify their execution.

The accused on 16 March 1968 appointed himself judge, jury, and executioner, and he convicted his prisoners without a trial. He assumed the responsibility for determining their guilt and he assumed responsibility for their deaths. The law of this nation and this country did not assume that responsibility. The United States Army did not assume that responsibility. He, and he, alone, made that determination and now he must assume the full responsibility for his unlawful acts.

The laws of this country are only as effective as they are enforced. Without enforcement, they have no meaning, for justice, like discipline, requires that the innocent be recognized and the guilty condemned. Discipline is the backbone of the military. The government and the law also recognize that when the law is disobeyed, it must be exposed and it must be condemned without remorse, without hesitation. It must be quick and it must be sure. The accused was a commissioned officer of the armed forces of this United States when he slaughtered his innocent victims in My Lai. He has attempted to absolve himself of responsibility by saying that he had his duty there, that he acted in the name of this country and the law of this nation, and I submit to you and the government submits to you that he did not and upon that question there can be no doubt. To make that assertion is to prostitute all of the humanitarian principles for which this nation stands. It is to prostitute the true mission of the United States soldier. It has been said the soldier, be he friendly or foe, is charged with the protection of the weak and unarmed. It is the very essence and reason for his being. When he violates this sacred trust, he not only profanes his entire cult but threatens the very fabric of international society. The traditions of fighting men are long and honorable. They are based upon the noblest of human faith, sacrifice.

You are members of a profession. You have rules governing your profession. Without rules to govern your profession, it's not a profession. Every profession is bound by ethics and the laws of warfare and the principles of humane treatment are the guidelines of the professional soldier. The United States government says to you that the accused failed in his

duty, that he did not act in the name of and in accordance with the law of this nation. Within our society and under the law, the value placed on human life is sacred. When the accused put on the uniform of an American soldier and took the oath of allegiance to this country, he was not relieved of his conscience. He was not relieved of his responsibility to know the difference between right and wrong, to know that he should not shoot an unarmed and innocent child or a baby. The accused, when he took the oath of an American officer, was not given a license to slaughter unarmed men, women, and children on his own personal supposition that they were the enemy. Such acts are not now nor have they ever been justified under the law of this country. This accused has failed in his duty as an officer.

Your duty is clear. On the evidence that we have presented to you and under the law, you can arrive at only one decision and still fulfill your duties as a member of this court. You gentlemen, as members of this court, are the conscience of the United States Army. You are the conscience of this country in this case, and you are asked only to fix the responsibility where it belongs. We have carried our burden and the response and the duty is yours to find the accused guilty as charged. Thank you.