

# THE CASE OF BILLY DEAN SMITH

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by MARK ALLEN

**T**HE SCENE HAS by now become almost a classic in the black community. Another black man torn from the streets of the United States to fight another war of aggression for a government that has offered him only brutal racism and depression-ridden streets.

Many unwillingly surrender to the awesome spectre of the U.S. government, hoping and praying that they will be among those who will return. Others hide out in the streets and on the campuses, delaying what so often seems the inevitable. Yet still others resist; they resist the draft, the racist military bureaucracy, and indeed many come to fight the system that has reigned terror on the oppressed and exploited peoples of the world, U.S. imperialism.

Billy Dean Smith resisted, and he is resisting today. Born in Bakersfield, California, the tenth of 12 children, he was raised in the Watts ghetto of Los Angeles.

In 1970, Billy Smith left Watts, and he may never return. He was drafted into the Vietnam war. He opposed the war then, and vehemently resisted his induction. Billy Smith went into the service only because he respected his family's wishes.

In October of that year, he was sent to Vietnam, to serve there in an artillery unit under a Captain Randall L. Rigby. Six months in Vietnam had gained Billy the reputation of having a "bad attitude." Billy Dean was not a "good nigger." His enemy was not the heroic Vietnamese who for hundreds of years, had waged the same struggle as a people he

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was waging as an individual on the battlefields of Vietnam. "I had stated time and time again that I realize that the war in Indochina was unjust and racially motivated, and most of all that I strictly hated all who had high regard for the habitual butchery of the Vietnamese people," he said.

Had it been otherwise, Billy Smith would not be in the confines of a military stockade today. He would not be, as he is, the victim of a government conspiracy that stretches from the Pentagon to the Ft. Ord army base on the Monterey Peninsula.

Within a few months of his tour in Vietnam, Smith's refusal to participate in the U.S. war on the people of Vietnam earned him the violent malice of his racist superiors. Billy wrote at that time "they aren't doing anything here except kill, kill, kill."

He received three Article 15 punishments (summary company punishments) in rapid succession. One for not having shaved to the satisfaction of his officers, despite the fact that he was, at that time, on the front lines. He was also being processed for a "212" discharge as unsuitable and unfit to serve in the U.S. army. A fact hardly disputed by Smith.

Captain Rigby, who "prided" himself on the "rapid, effective artillery fire" of his units, called Smith "unenthusiastic" about "closing with the enemy."

**M**MILITARY enthusiasm, translated into the reality of the battlefields of Indochina is the Song My massacres, the My Lai massacres, the bombing of hospitals, schools, and play-

grounds. It is the thousands of innocent Vietnamese people, their lives stilled by U.S. aggression, lying in unmarked graves throughout the gutted fields of Vietnam. Billy Smith was "unenthusiastic" about participating in the most heinous war of genocide in modern times.

In the early hours of March 15, 1971, a fragmentation grenade exploded in an officers barracks at Bien Hoa army base in the Republic of South Vietnam. Two white lieutenants were killed, and another wounded. Captain Rigby and a first sergeant, Billy E. Willis, arrived at the barracks. They were to have slept in the barracks that night, they claimed, and asserted they were the intended victims. The only logical guilty party was the black GI with the "bad attitude," Billy Smith.

Willis and Rigby immediately took their conclusions to the Army's Criminal Investigation Division (CID). Willis, Rigby, and the CID's investigating officer called a battalion formation, a line-up. Without all the men present, with no evidence, and without any investigation whatsoever, Smith was called to the front of the formation. As the hand of a CID military policeman grabbed his shoulder, he was notified he was under arrest for murder. Slapping the hand off his shoulder, the charge of resisting arrest was added to the growing list of his alleged criminal activities.

Billy Dean Smith stood charged with two counts of murder, two counts of resisting arrest, one count of assault, and two counts of attempted murder (on Rigby and Willis), without any evidence. The army's investigation ended there. No challenge was made to Rigby's theory, no possibility was raised that some one other than Smith had "fragged" the officers, and the Army began immediately building its case against Smith.

Smith is presently on trial at Ft. Ord military base outside of Monterey, California. He is the first GI accused of "fragging" (assault on an officer with a fragmentation grenade) to go on trial in the United States.

ACCORDING TO the Department of Defense, in 1969 there were some 169 cases of "fragging"; in 1970, the number rose to 271, resulting in 34 deaths and over 300 officers wounded; and in the first eight months of 1971 alone, some 238 cases of "fragging" were reported.

These numbers, "officially" reported by the government, while dramatic, are hardly the sole indication of the intense conflict between draftees and officers; between those taken from the streets to murder, and the machine that perpetrates the criminal war in Indochina. It is a confrontation, in part, brought about by racism that has two victims, the Vietnamese and the peoples of color forced to fight an imperialist war of aggression.

The disillusionment of the U.S. soldiers with the Vietnam war is widespread, the hatred for the officers intense, and Billy Dean Smith, in this regards, is certainly not alone.

What is the evidence against Billy? When arrested, Smith was illegally searched and a grenade pin was found in his pocket. The grenade pin was sent to a laboratory in Japan for a ballistics test along with a grenade spoon found near the explosion.

Photographs of the test, while showing similarities, as acknowledged by the prosecution's witness, revealed clear differences. (The test incidentally, was created for this case, as ballistics had never before been used to match parts of grenades).

Besides the grenade pin, an object found in the pockets of an overwhelming number of GIs in Vietnam, Smith had supposedly said he considered his commanding officers racist, hated them, and that a grenade was a good way to deal with them.

The feelings allegedly expressed by Smith towards the war and his officers, hardly distinguishes him from the thousands of GIs stretched across Vietnam. One of the prosecution's own witnesses called talk of attacks on officers as "just conversation, it occurs all the time."

Since his arrest in 1971, Smith has been in solitary confinement for 23 out of 24 hours

of every day. A striking contrast to the treatment, almost a hero's welcome, given to Lt. William Calley for the murder of, at least, 22 Vietnamese women and children. Calley, a convicted murderer, is now confined to house arrest, because of the intervention of President Nixon. Smith is a black GI who according to law is innocent. There are indications here, too, that Nixon has intervened, but with different motives. Calley is white, Smith is black, one an "enthusiastic" supporter of Nixon's genocidal war, the other a valiant opponent.

Smith "was the only man I had problems with and his was the first name that popped into my head," said Willis as he testified for the prosecution. And that, in those few words, is the prosecution's total case against Smith. They had problems with him.

At the time of this writing the defense was in the early stages of its case. The prosecution rested with what at best can be called an inconclusive case. Indeed to many observers, those who have followed the case, it is a total farce. Willis himself was forced to admit that he was drunk the night of the fragging, and in his own words, "was emotional and upset after seeing my two friends dead. I figured someone was trying to get me, and I figured it was Billy D. Smith."

The trial which began Sept. 6, had been postponed close to two weeks because the prosecution could not get a number of witnesses to voluntarily testify against Billy Dean, they had to issue warrants to bring them to court.

Of those who did testify, two admitted on the stand they had lied, another retracted his former testimony that the man he saw running from the barracks was Billy Smith. Still two others, were hardly credible, one was dishonorably discharged three times from the army, enlisting under three different names. One discharge was for the selling of heroin, another for homosexual activities (the third reason was not revealed in the courtroom). The other witness was discharged "for the good of the service," no other reason was given.

**WHAT REMAINS AS "EVIDENCE"** in this young black man's trial is the alleged scientific proof, a ballistics test. Yet lack of evidence in this trial may mean little. Smith sits in a courtroom in the heart of a military compound. His judge is a 52 year-old North Carolina Colonel, handpicked by the Commanding General of Ft Ord, Harold Moore. The jury, a seven man military panel, all officers, all career soldiers, including two blacks, were also handpicked by the commanding general. The nature of the charges, the prosecutors, and even the two military defense lawyers are the results of decisions by Moore.

But as the defense opened its case Oct. 19, evidence came out that indeed, Moore, too is getting orders from above. Luke McKisack, civilian and chief trial lawyer for Smith, had requested of the prosecution monies for travel and investigation fees of its own ballistics expert to the tune of \$3,000, terms agreed upon by the prosecution. In military cases the costs of the defense investigation are to be borne by the military, through the prosecution.

Once the defense opened its case, the prosecution stated that after consultation with the judge, Moore, and "people in Washington," only \$600 would be made available, for travel. None would be supplied for investigation, investigation that would refute the last vestige of any credible evidence against Billy Dean Smith.

**THE TRIAL OF BILLY SMITH** is without a doubt one of the most critical political cases to take place in recent years. Mass support for Billy Dean has been lacking. Yet he stands alone as a symbol of every black man who, with his blood, has smoothed the path of U.S. aggression, in Korea, the Dominican Republic, and in Vietnam.

*As we were going to press, the Black Scholar learned that Billy Dean Smith was acquitted of murder charges. However, he was found guilty of assault, and also given a bad conduct discharge.*